DEPARTMENT OF EXTERNAL AFFAIRS

CONFERENCE SERIES, 1945
No. 2

REPORT
ON THE
UNITED NATIONS CONFERENCE
ON
INTERNATIONAL ORGANIZATION

Held at San Francisco, 25th April - 26th June, 1945

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
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To His Excellency
The Governor General in Council

YOUR EXCELLENCY:

As chairman of the delegation appointed to represent Canada at the United Nations Conference on International Organization, which was held in San Francisco from April 25 to June 26, 1945, I have the honour to lay before Your Excellency the attached report on the proceedings of the Conference.

I have the honour to be, Sir,

Your Excellency's Obedient Servant,

W. L. MACKENZIE KING,
Secretary of State for External Affairs.

OTTAWA, September 1, 1945.

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REPORT ON THE UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION

SECTION 1

THE BACKGROUND OF THE CONFERENCE

The Moscow Conference which ended on November 1, 1943, was the first step by the Great Powers towards the development of plans for the new international security organization forecast in the Atlantic Charter, and endorsed by the United Nations Declaration of 1942. In the Declaration issued at the conclusion of the Moscow Conference the Governments of the United Kingdom, the Union of Soviet Socialist Republics, the United States of America, and China, which were later represented at Dumbarton Oaks, Washington, declared that they recognized "the necessity of establishing at the earliest practicable date a general international organization based on the principle of the sovereign equality of all peace-loving states and open to membership by all such states, large and small, for the maintenance of international peace and security".

The Prime Ministers' Meeting in London in May, 1944, discussed proposals framed by the United Kingdom Government. The United Kingdom Government, after revising these proposals in the light of the discussions, submitted them to the Governments of China, the Union of Soviet Socialist Republics, and the United States of America. Corresponding papers prepared by these three Governments were also circulated among the four Great Powers.

Following a study of the revised United Kingdom memoranda, the Canadian Government gave the United Kingdom Government a considered expression of its views on some of the more important questions which were about to be discussed between the four powers.

The documents prepared by the four powers constituted the basis of the Dumbarton Oaks conversations which took place in Washington from August 21 to October 7, 1944, between the representatives of the four powers. The Dumbarton Oaks Proposals resulted from these conversations.

Canada was not represented at Dumbarton Oaks, but the United Kingdom delegation met every day with representatives of the diplomatic missions in Washington of Canada, Australia, New Zealand, South Africa and India. Thus the Canadian Government received day-by-day reports on the progress of the discussions and, in return, made its own views known to the United Kingdom delegation, both at the daily Commonwealth meetings and by telegrams to the United Kingdom Government.

Several questions on which agreement at a high political level was necessary were left open at Dumbarton Oaks. The most important of these related to the voting procedure in the Security Council. Agreement on this was reached between the Governments of the Soviet Union, the United States, and the United Kingdom at the Crimea Conference at Yalta in February 1945. The Yalta Conference also agreed that the question of the possible functions of the projected new international organization in the field of territorial trusteeship

should be included on the agenda of the general United Nations Conference on International Organization. It was also agreed that the three powers would support the admission to the new organization of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic. These decisions were subsequently concurred in by China.

On March 5, 1945, invitations were extended to Canada and the other United Nations to attend at San Francisco a United Nations Conference on International Organization. The invitations were extended by the United States on its behalf and on behalf of the other three Sponsoring Powers, China, the Soviet Union, and the United Kingdom. The invitation suggested that the Conference should consider, as affording a basis for the Charter of the new organization, the proposals which had been agreed upon by the four Governments. The Canadian Government accepted this invitation.

The Parliament of Canada, after full debate, approved by an overwhelming majority a Resolution endorsing the Government's acceptance of the invitation. It recognized "that the establishment of an effective international organization for the maintenance of international peace and security is of vital importance to Canada, and, indeed, to the future well-being of mankind; and that it is in the interests of Canada that Canada should become a member of such an organization". It approved "the purposes and principles set forth in the proposals of the four governments", and considered "that these proposals constitute a satisfactory general basis for a discussion of the Charter of the proposed international organization". It agreed "that the representatives of Canada at the Conference should use their best endeavours to further the preparation of an acceptable Charter for an international organization for the maintenance of international peace and security". The Resolution concluded with the statement that "the Charter establishing the international organization should, before ratification, be submitted to Parliament for approval".

During the period between the Dumbarton Oaks conversations and the San Francisco Conference, the Canadian Government had been giving serious consideration to the Dumbarton Oaks Proposals. Canadian diplomatic representatives abroad, especially those accredited to the Great Powers and to leading secondary states, informally exchanged views with the Governments to which they were accredited. These informal exchanges of views were supplemented by a formal memorandum submitted on January 12, 1945, to the Governments of the five Great Powers, making a number of suggestions for improving the effectiveness of the proposed international organization.

The Prime Minister, Mr. Mackenzie King, on his visit to Washington in March 1945, had an opportunity for personal conversations with the late President Roosevelt in which they discussed the main features of the Dumbarton Oaks Proposals and the suggestions which had been put forward by the Canadian Government.

From April 4 to 13 a meeting of representatives of Commonwealth Governments took place in London to discuss the Dumbarton Oaks Proposals. The Prime Minister was unable to be present and the Canadian Government was represented by Mr. Vincent Massey, the Canadian High Commissioner in London, and Mr. Hume Wrong, the Associate Under-Secretary of State for External Affairs. This meeting led to a useful exchange of information and a clarification of the views of the nations of the Commonwealth, all of which were deeply interested in the success of the San Francisco Conference.

Thus through a gradual process of discussion and development the ground was prepared for the San Francisco Conference.

SECTION 2

THE CANADIAN DELEGATION

Composition

It was considered essential that Canadian representation at the San Francisco Conference should be assured of the widest possible measure of support from the Parliament and people of Canada. It was important that the Canadian representatives should speak with a clear, strong and united voice. For these reasons it was desirable that Canada's delegation to the San Francisco Conference should be broadly representative. The Government therefore decided to select representatives from both Houses of Parliament, and from both sides of each House. The Government itself, of course, assumed its constitutional responsibility both for the selection of the delegation and for the decisions agreed to at San Francisco.

The following delegates were appointed:

The Rt. Hon. W. L. Mackenzie King, Prime Minister of Canada, President of the Privy Council and Secretary of State for External Affairs, Chairman of the Delegation;
The Hon. L. S. St. Laurent, K.C., M.P., Minister of Justice and Attorney General of Canada, Deputy Chairman of the Delegation;
Senator the Hon. J. H. King, M.D., Leader of the Government in the Senate;
The Hon. Lucien Moraud, K.C., Member of the Senate;
Mr. Gordon Graydon, M.P., Leader of the Opposition in the House of Commons;
Mr. M. J. Coldwell, M.P., President and Parliamentary Leader, Co-operative Commonwealth Federation; and
Mrs. Cora T. Casselman, M.P.

The senior advisers and alternate delegates were:

Mr. N. A. Robertson, Under-Secretary of State for External Affairs;
Mr. H. H. Wrong, Associate Under-Secretary of State for External Affairs;
Mr. L. B. Pearson, O.B.E., Canadian Ambassador to the United States of America;
Mr. Jean Désy, K.C., Canadian Ambassador to Brazil;
Mr. L. D. Wilgress, Canadian Ambassador to the Union of Soviet Socialist Republics;
Mr. W. F. Chipman, K.C., Canadian Ambassador to Chile; and
Major-General M. A. Pope, C.B., M.C., Military Staff Officer to the Prime Minister, Military Secretary to the Cabinet War Committee and Member of the Chiefs of Staff Committee.

Six special advisers were appointed:

Mr. P. E. Renaud, Department of External Affairs;
Mr. L. Rasminsky, Assistant to the Governor of the Bank of Canada;
Mr. Escott Reid, Canadian Embassy, Washington;
Mr. C. S. A. Ritchie, Department of External Affairs;
Miss Elizabeth MacCallum, Department of External Affairs;
Mr. R. Chaput, Department of External Affairs.

The press and information officers of the delegation were:

Mr. A. D. Dunton, General Manager of the Wartime Information Board;
Mr. Hugh Campbell, Wartime Information Board, Canadian Embassy, Washington; and
Mr. N. J. Anderson, Wartime Information Board.

Mr. R. G. Robertson of the Department of External Affairs was secretary of the delegation. The assistant secretaries were Mr. J. L. Delisle and Miss M. Bridge, both of the Department of External Affairs.

The Prime Minister was accompanied to the Conference by his secretariat consisting of his principal secretary, Mr. W. J. Turnbull, and of Mr. J. W. Pickersgill, Mr. J. A. Gibson, Lieutenant-Colonel C. S. Wallace and Mr. J. E. Handy.

The Minister of Justice was accompanied by his secretary, Mr. M. Bernier; Mr. Graydon by his secretary, Mr. M. Jack; and Mr. Coldwell by his secretary, Mr. A. B. Macdonald.

Because of the general election the Prime Minister had to be absent from the Conference from May 14th to June 23rd, the Minister of Justice from May 16th to June 23rd, Senator King from June 6th to June 23rd. Likewise Senator Moraud had to leave the Conference on May 25th, Mr. Graydon on May 23rd, Mr. Coldwell on May 19th, and Mrs. Casselman on May 16th. Senator King was acting chairman of the delegation from May 16th to June 6th and Mr. N. A. Robertson from June 7th to June 23rd. The delegation was assisted by a competent and hard-working group of stenographers, cypher officers and messengers.

Approach to the Problems of the Conference

The approach of the Canadian delegation to the problems which the San Francisco Conference had been called together to face was outlined by the Prime Minister of Canada at the second plenary meeting of the Conference on April 27, 1945.

Mr. King said:

> The Canadian delegation comes to this Conference with one central purpose in view. That purpose is to co-operate as completely as we can with the delegations of other nations in bringing into being, as soon as possible, a Charter of world security.
>
> This Conference is meeting at a time without parallel in the history of human affairs. The present is one of those moments of transition when an old order is passing away. As representatives of the United Nations, we are all here to help lay the foundations of a new world order. The ends that we seek to serve transcend the limits of race and the bounds of nationality.
>
> We would do well to seek to match our deliberations to the rapid movement of events. While the fires of war are still burning fiercely, the opportunity is given to this Conference to forge and fashion from those fires an instrument for world security. In the execution of this great task there should be no avoidable delay. It is ours to give to grief-stricken humanity a hope of which it is in greater need today than it has ever been before. It is ours to help to bring into being a world community in which social security and human welfare will become a part of the inheritance of mankind.
>
> The support we owe to the fighting forces of the United Nations must extend beyond the theatres of war. It must look beyond the end of hostilities. We owe it to all who have borne the heat of the strife; we owe it to the memory of those who have given their lives, to do all in our power to ensure that their services and their sacrifice shall not have been in vain.
>
> In the past, the sacrifices of human life in war have been commemorated in monuments of stone or bronze. The only memorial worthy of the service and sacrifice of this war is one which will help to secure to peoples everywhere the opportunities of a more abundant life.
>
> Perhaps this great gathering would permit me, as one who represents a country which has such close ties with the United States, to say how

deeply Canada felt and will continue to feel the loss of so close a friend and so good a neighbour as President Roosevelt. To many here who enjoyed his friendship, his death was a deeply moving, personal bereavement. To the United States, in its national bereavement, I should like again to express our sympathy.

But the passing of Franklin Roosevelt was more than a loss to neighbouring countries. It is a loss to the whole freedom-loving world. That loss places upon each and every one of us a greater responsibility. If the spirit of Franklin Roosevelt pervades the deliberations of this Conference, its success will be assured. The highest tribute which we of the United Nations can pay to his memory is, by our united efforts, to build a world organization which will express his life's aims and his life's ideals—a system of international co-operation which will banish from the world the threat of war, and the fear of war. To those who have come to this continent from other lands I can express no higher hope for the future of mankind than that out of the instrument we are now fashioning there may develop relations among all nations similar to those which for generations have been the common possession of Canada and the United States.

May I add a further personal reference? All present will join with Mr. Stettinius in the hope he expressed that, before the Conference concludes, Mr. Cordell Hull will be sufficiently restored in health to join in our deliberations. Mr. Hull's name will always be associated with the origins of the world security organization. His years of devoted service to the cause of world freedom, his great political wisdom, his fortitude, at his age, in making the arduous journey to Moscow in 1943, and the large share he has had in shaping the proposals we are now considering have earned for him an enduring place among the founders of the United Nations.

The proceedings of this Conference have been greatly facilitated by the preparatory work already done at Dumbarton Oaks and at Yalta by the inviting powers. We may all rejoice that the Great Powers have achieved unified proposals for a world security organization. That is a great step forward, a mighty contribution already made toward the establishment and maintenance of world peace.

The rapid movement of events on the battlefronts and the heavy demands on all who are represented here at San Francisco make it most desirable to begin as early as possible the detailed consideration of the proposals before the Conference.

It is not the intention of the Canadian delegation to put forth in plenary session special amendments to the proposals. Our delegation will express its point of view at an appropriate time and place on specific questions as they arise. Our sole preoccupation in any amendment which we may put forward or support at a later stage will be to help in creating an organization which over the years and decades to come will be strong enough and flexible enough to stand any strains to which it may be subjected.

We shall not be guided by considerations of national pride or prestige and shall not seek to have changes made for reasons such as these. We recognize the principle that power and responsibility must go hand in hand and that international security depends primarily upon the maintenance of an overwhelming preponderance of power on the side of peace. Power, however, is not exclusively concentrated in the hands of any four or five states, and the Conference should not act on the assumption that it is. Such a position would not only be contrary to the facts as they have been demonstrated in the past five years, but it would also be dangerous to the cause of security itself, for it would foster in many smaller countries the development of a new type of isolationism, a feeling that the task of preserving the peace could be left exclusively to Great Powers. Such a

habit of thought would make it difficult for the smaller powers to make their contribution. Experience has shown that the contribution of smaller powers is not a negligible one, either to the preserving of the peace or to its restoration when peace has been disturbed.

The people of Canada are firm in their resolve to do whatever lies in their power to insure that the world will not be engulfed for a third time by a tidal wave of savagery and despotism. That is why our Parliament overwhelmingly endorsed the acceptance of the invitation to Canada to participate in this Conference. That is why our Parliament accepted the proposals of the inviting powers as a satisfactory general basis for the discussion of the proposed Charter. That is why the delegation from Canada received from Parliament a mandate to use its best endeavours at this Conference to further an agreement to establish a world security organization. The measure of the unanimity of our country is to be found in its delegation to this Conference. The delegates were selected while our Parliament was in session. They were chosen from both Houses and from both sides of each House. They represent all important shades of opinion in Canada.

In conclusion, may I express my firm conviction that the spirit in which we approach the great task of this Conference will determine the measure of its success. It is for each nation to remember that over all nations is humanity. It is for all to remember that justice is the common concern of mankind. The years of war have surely taught the supreme lesson that men and nations should not be made to serve selfish national ends, whether those ends be isolated self-defence or world domination. Nations everywhere must unite to save and to serve humanity.

SECTION 3

THE ORGANIZATION OF THE CONFERENCE

Members

The four Sponsoring Powers invited to the Conference forty-two states which had signed the Declaration by United Nations. Poland was the only state which had signed the Declaration which was not invited. This was because the Sponsoring Powers did not reach agreement on the recognition of a Polish Provisional Government of National Unity until after the Conference had ended.

After the Conference had met, it invited four states: the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic, Argentina and Denmark. Thus the Conference consisted of delegations from the following fifty states:

Argentina
Australia
Belgium
Bolivia
Brazil
Byelorussian Soviet Socialist Republic
Canada
Chile
China
Colombia
Costa Rica
Cuba
Czechoslovakia
Denmark
Dominican Republic
Ecuador
Egypt
El Salvador
Ethiopia
France
Greece
Guatemala
Haiti
Honduras
India
Iran
Iraq
Lebanon
Liberia
Luxembourg
Mexico
Netherlands
New Zealand
Nicaragua
Norway

Panama
Paraguay
Peru
Philippine Commonwealth
Saudi Arabia
Syria
Turkey
Ukrainian Soviet Socialist Republic
Union of South Africa
Union of Soviet Socialist Republics
United Kingdom
United States of America
Uruguay
Venezuela
Yugoslavia

Agenda

The Conference agreed that its agenda would be the Dumbarton Oaks Proposals supplemented by the Yalta voting formula, certain proposals of China which had been agreed to by the four Sponsoring Powers, and amendments submitted by May 4 by any member of the Conference. A large number of proposals were forthcoming, among them being a series of important amendments submitted jointly by the four Sponsoring Powers. These took account of suggestions which had been made by various Governments, including the Canadian, since the Dumbarton Oaks Proposals had been made public.

Appendix A of this report contains the text of the Dumbarton Oaks Proposals as supplemented by the Yalta formula.

Technical Committees

The agenda was divided between twelve technical committees on each of which each member of the Conference could be represented. These committees met in private, but summaries of their proceedings will be made public.

The Conference also held a number of plenary public sessions and a number of public sessions of its four Commissions at which there was an opportunity for public discussion of the reports of the technical committees before submission of the Charter to the plenary sessions of the Conference. In practice, however, the most important work of the Conference was done in the technical committees.

Canada was represented as follows on the technical committees:

Preamble, Purposes and Principles
Senator the Hon. J. H. King,
Mrs. Cora T. Casselman,
Mr. N. A. Robertson,
assisted by
Mr. C. S. A. Ritchie.

Membership, amendment and secretariat
The Hon. L. S. St. Laurent,
Mr. N. A. Robertson,
assisted by
Mr. L. B. Pearson,
Mr. L. Rasminsky,
Mr. Escott Reid.

Structure and procedures of the General Assembly
Mr. M. J. Coldwell,
assisted by
Mr. Escott Reid.

Political and security functions of the General Assembly
Mr. Gordon Graydon,
Mr. W. F. Chipman,
assisted by
Mr. Escott Reid.

Economic and social co-operation
Mr. Gordon Graydon,
Mr. M. J. Coldwell,
Mr. L. B. Pearson,
assisted by
Mr. L. Rasminsky.

Trusteeship system
Senator Lucien Moraud,
Mr. L. D. Wilgress,
assisted by
Mr. P. E. Renaud,
Miss Elizabeth MacCallum.

Structure and procedures of the Security Council
The Hon. L. S. St. Laurent,
Mr. L. B. Pearson,
assisted by
Mr. C. S. A. Ritchie.

Pacific settlement of disputes
Mrs. Cora T. Casselman,
Mr. L. D. Wilgress.

Enforcement arrangements
The Rt. Hon. W. L. Mackenzie King,
Mr. H. H. Wrong,
assisted by
Major-General M. A. Pope,
Mr. C. S. A. Ritchie.

Regional arrangements
Mr. Gordon Graydon,
Mr. Jean Désy,
assisted by
Major-General M. A. Pope.

The International Court of Justice
The Hon. L. S. St. Laurent,
Mr. W. F. Chipman,
assisted by
Mr. R. Chaput.

Legal problems
Mr. Jean Désy,
assisted by
Mr. P. E. Renaud,
Mr. R. G. Robertson.

STEERING, EXECUTIVE AND CO-ORDINATION COMMITTEES

The committee in charge of the general organization of the Conference was the Steering Committee consisting of the chairmen of all delegations. The Steering Committee was assisted by a fourteen-member Executive Committee elected by it. This consisted of the chairmen of the delegations of the four Sponsoring Powers and of the following states: Australia, Brazil, Canada, Chile, Czechoslovakia, France, Iran, Mexico, the Netherlands and Yugoslavia. The Canadian member of both Committees was the Rt. Hon. W. L. Mackenzie King. Mr. N. A. Robertson was his adviser and alternate.

The Executive Committee was assisted by a Co-ordination Committee consisting of fourteen members, one representing each member of the Executive Committee. As soon as any of the technical committees approved of a paragraph of the Charter, it was sent to the Co-ordination Committee, whose duty it was to revise it if it did not clearly express the intent of the technical committee. The Co-ordination Committee was also required to review all the paragraphs to make sure that they were consistent with each other in form and in substance, and to arrange them in logical sequence by articles and chapters. It also made certain changes in the language of the Statute of the International Court of Justice to bring its use of terms into conformity with those used in the Charter.

Because many technical committees did not finish their work until a few days before the date set for signature of the Charter, the Co-ordination Committee did not have sufficient time in which to complete its review of certain important sections of the Charter, with the result that both the Charter and the Statute suffer from faults of drafting which might usefully be remedied by constitutional amendments adopted at the first session of the General Assembly. The Canadian member of the Co-ordination Committee was Mr. N. A. Robertson. He was assisted by Mr. Escott Reid.

Advisory Committee of Jurists

The Executive Committee was also assisted by the Advisory Committee of Jurists consisting of one jurist from each of the following six delegations: China, France, Mexico, the Soviet Union, the United Kingdom and the United States. This Committee reviewed the text of the Charter from the point of view of its legal terminology.

SECTION 4

THE CHARTER—CHAPTER BY CHAPTER

The Name of the Organization

The name "United Nations" was suggested by President Roosevelt and was taken from the Declaration by United Nations of January 1, 1942.

Some of the delegations at the San Francisco Conference were opposed to this title on the ground that it was too narrowly connected with a wartime alliance and that it would, therefore, not be appropriate for a permanent Peace Organization in which in due course nations which had been neutral in this war might come to be included. On the other hand, however, it was argued that the title "United Nations" would preserve continuity with the existing United Nations and would emphasize both their military unity and the declarations regarding peace aims to which they were already committed. The United States delegation were firmly attached to the title "United Nations". To quote the report of the Secretary of State of the United States on the results of the San Francisco Conference, the United States delegation "took the position that the war had been successfully prosecuted under the banner of the United Nations; that good fortune attaches to this name; and that we should go forward under it to realize our dreams of the peace planned by the President who conceived the phrase." In the event the title "United Nations" was adopted at San Francisco unanimously and by acclamation.

Preamble

The preamble to the Charter was not drafted at Dumbarton Oaks, but it was felt at San Francisco that the Charter should be introduced by a preamble which would give expression in simple language to the motives which

had inspired the peoples of the United Nations in coming together to set up an international organization, and which should contain a declaration of the human rights and the common faith which inspired the United Nations. The preamble as it stands is based upon a draft drawn up by Field Marshal Smuts. It is an integral part of the Charter, although the precise obligations of the member states are indicated in the succeeding chapters.

The preamble reaffirms the faith of the peoples of the United Nations in those standards of civilized life which were attacked by our enemies in this war—the worth and dignity of the individual, the rule of law and justice among nations and respect for the pledged word. We in Canada, in common with the other United Nations who have set their names to this preamble and to the Purposes and Principles contained in the Charter, are persuaded that men and nations can by their joint and sustained efforts live together as good neighbours, free from fear and want, and with liberty of thought and worship. We are resolved to save ourselves and our children from the scourge of war which twice in our time has brought us untold loss and sorrow. Therefore we unite our strength to keep the peace.

Purposes and Principles of the Organization

(Chapter I of the Charter)

The importance of the Purposes and Principles lies in the fact that they are not intended to be merely a collection of pious aspirations for the better behaviour of states, but that they are the basis of the Organization itself and are specifically made binding on all its Members. The first Purpose of the Organization is the prevention of war and the maintenance of security. The immediately succeeding Purposes recognize that the Organization is to be concerned not merely with the prevention of war, but with constructive activities directed towards the development of friendly relations between Members and international co-operation in the economic and social spheres. These two aims run through the whole Charter—on the one hand, the maintenance of peace, and on the other, positive action to bring about the conditions which make for peace and prosperity in the world.

While most of the Purposes and Principles of the Organization still remain in the form in which they were studied and approved by the Parliament of Canada when they formed part of the Dumbarton Oaks Proposals, there have been some important changes and additions as a result of the discussions at San Francisco.

PURPOSES

Justice and International Law

It soon became apparent during the debates at San Francisco that many of the delegations felt that greater emphasis should be placed on the idea that the preservation of peace must always be linked with the maintenance of justice and international law. It was strongly felt that this should be stated in the very first Purpose of the Organization. There was some latent anxiety among the smaller states lest at a future date their vital national interests might be sacrificed to a temporary peace founded on expediency rather than on the rule of justice. It was with the object of giving new emphasis to the fact that justice and international law are to be the bases of the Organization that the phrase "in conformity with the principles of justice and international law" was added to the first paragraph of Article 1. The Canadian delegation

was in full sympathy with this objective and voted in favour of the amendment to add these words to the Charter. The result of the adoption of this amendment is that Article 1 now begins as follows:

> The Purposes of the United Nations are:
>
> 1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

A number of delegations, however, were not completely satisfied and proposed further changes in the language of the paragraph to strengthen the reference to justice and international law. They argued that it was not sufficient to mention justice as a condition of maintaining peace, but rather that the attainment of justice in international relations should be stated as one of the Purposes of the Organization. The United Kingdom and United States delegations, who led the opposition to further change in the language of the paragraph, made it plain that they were not opposing the general principle involved. In their view, however, the adoption of more rigid language might offer a dangerous opportunity for delaying procedures and for the discussion of the meaning of abstract phrases at a juncture when speed and decisiveness might be essential to the maintenance of peace. It was on these grounds that the Canadian delegation voted for the paragraph as it is now incorporated in the Charter and against further change in its language.

Human Rights and Fundamental Freedoms

The Dumbarton Oaks Proposals contained a statement in the chapter on economic and social co-operation that the Organization should promote respect for human rights and fundamental freedoms. It was agreed by the Conference that the reference to human rights should be given greater emphasis. Accordingly it was placed in the first chapter of the Charter where it takes its place among the Purposes for which the Organization has been brought into existence. The Conference also decided that the wording of this Purpose should be amplified and made more explicit so that it now states that the Organization shall seek to achieve international co-operation in "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion".

Another change introduced in the language of the Article was that it should be a Purpose of the United Nations to develop friendly relations among nations on the basis of "respect for the principle of equal rights and self-determination of peoples".

PRINCIPLES

The Principles contained in the Charter are for the most part self-explanatory, and Article 2 of the Charter remains largely as it was drafted at Dumbarton Oaks. A few changes were, however, made at San Francisco.

Territorial Integrity and Political Independence

The Conference felt that there should be in the Charter a clear reference to the obligation of states to respect each other's territorial integrity and political independence. As a result there has now been included as the fourth Principle that "all Members [of the United Nations] shall refrain in their international relations from the threat or use of force against the territorial integrity or

political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations". Except for the reference to territorial integrity and political independence, this Principle was also found in the Dumbarton Oaks Proposals. The result of this paragraph is that force may be used only under the authority of the Organization and only in order to prevent and to remove threats to the peace, and to suppress acts of aggressors. The Members have assumed a definite and specific obligation to renounce the use of force in all other circumstances, except that under Article 51 they may use force for individual or collective self-defence "until the Security Council has taken the measures necessary to maintain international peace and security".

The Canadian delegation had, of course, no hesitation in voting in favour of the amendment to respect the territorial integrity and political independence of other states.

The fourth Principle as it now stands was not, however, considered satisfactory by some delegations. New Zealand proposed an amendment to the effect that all Members of the Organization should undertake collectively to resist any act of aggression against any Member. They argued that a positive guarantee of collective action was the minimum obligation which would ensure the success of the Organization in the maintenance of peace and security. The New Zealand amendment was opposed by the delegations of the United States and the United Kingdom, as well as by other delegations, partly on the grounds of the difficulty of defining "an act of aggression", but also because it was already laid down in the Charter that the Security Council was to determine whether an act was a threat to the peace, and would also decide what contribution each Member should make to peace enforcement. The Canadian delegation shared this view and considered it to be consistent with the underlying plan of the Organization, which places the obligation for collective action on the Organization, whereas the New Zealand amendment, had it been adopted, would have placed the obligation directly on the individual Members. On these grounds Canada voted against the New Zealand amendment, which was defeated as it failed to receive the requisite two-thirds majority.

Domestic Jurisdiction

One of the most important questions before the Conference was that of the line to be drawn between the very extensive powers granted to the Organization and the domain of domestic or internal jurisdiction of the Members. The Conference was generally agreed that the Organization must not interfere in the internal affairs of its Members, and with this view the Canadian delegation was fully in accord.

The domestic jurisdiction of Members was safeguarded in the Dumbarton Oaks Proposals by a statement that nothing in that section of the Proposals which dealt with the pacific settlement of disputes should apply to situations or disputes arising out of matters within the domestic jurisdiction of the state concerned. At San Francisco it was decided that this statement should be reworded and placed in the first chapter as one of the Principles of the Organization so that it would apply to all the provisions of the Charter other than those specifically excepted. The Principle as adopted by the Conference provided, therefore, that nothing in the Charter "shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state". It was further provided that Members are not required to submit such domestic matters to settlement under the Charter. One exception is then stated. The Principle is not to "prejudice the application of enforcement measures under Chapter VII".

The debate in the Conference was concerned with the character and extent of this exception. In its original form as proposed by the Sponsoring Powers, the exception applied not merely to enforcement measures under Chapter VII,

but to any action taken under Chapter VII. It was felt by many delegations, and particularly by those of Australia and New Zealand, that this might imply the possibility of serious encroachment on the internal jurisdiction of Members. No objection was taken by them to the power granted to the Security Council to impose sanctions once it had determined the existence of a threat to the peace, a breach of the peace, or an act of aggression. What concerned them was that under Chapter VII the Security Council has not only the power to impose sanctions but also the power to "make recommendations". Their fear was that this might empower the Security Council to interfere in the domestic affairs of a state and dictate terms to it over a dispute arising out of a matter of internal jurisdiction. They also argued that it might encourage aggressor states to use or threaten force in any dispute arising out of a matter of domestic jurisdiction in the hope of inducing the Security Council to extort concessions from the state that was threatened. Accordingly, after considerable debate, the exception to the principle of non-interference in domestic questions was limited to "the application of enforcement measures under Chapter VII", and in this form it appears in the Charter. The Canadian delegation, in common with the delegations of the United Kingdom and the United States, although anxious to avoid any restriction which might limit the primary object of the Organization to maintain peace and security, came to the conclusion that there was much force in the Australian contention and therefore voted in favour of the Australian amendment. The protection accorded to the domestic jurisdiction of member states is now very complete as it is clear that there can be no interference in the domestic economy or internal legislation of Members.

The seventh Principle, as adopted at the Conference, reads as follows:

> Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Membership

(Chapter II of the Charter)

ORIGINAL MEMBERS AND ADMISSION OF NEW MEMBERS

The Conference found no difficulty in agreeing that all the states represented at the Conference, together with Poland, should have the right to become original Members of the Organization by signing the Charter and ratifying it. (Article 3.)

There was, however, a substantial difference of opinion on the principles which should be followed in admitting other states to membership. A number of Latin American representatives championed the doctrine of universality, holding that all states should, because of the mere fact of their existence as states, be Members of the Organization, although for some time, either because of their own reluctance to commit themselves or because they were not considered fully trustworthy, certain of them would not enjoy active membership or be represented in the General Assembly or the Security Council. A number of European representatives, on the other hand, contended that definite criteria for membership should be established. The Netherlands delegation, for example, proposed that there should be added to the statement in the Dumbarton Oaks Proposals that "membership of the Organization should be open to all peace-loving states", the words "which may be expected on account of their institutions and by their international behaviour faithfully to observe and carry out international commitments".

After considerable discussion the Conference agreed that any peace-loving state which accepts the obligations contained in the Charter and, in the judg-

ment of the Organization, is able and willing to carry them out, can be admitted to membership by a two-thirds vote of the General Assembly upon the recommendation of the Security Council with the concurring votes of all five of the permanent Members. (Article 4, supplemented by the voting provisions of Articles 18 and 27.)

This decision was supplemented by an interpretative resolution designed to bar Spain from membership in the Organization so long as the present regime continues in power. The resolution was adopted by acclamation at a public meeting of Commission I.

Canada was opposed to granting any one of the five Great Powers a veto over the admission of new Members to the Organization and therefore voted for the alternative Australian proposal under which the concurrence of the Security Council would be required only for the admission of enemy states and Spain. Had this proposal been adopted, any other state could have been admitted by a two-thirds vote of the General Assembly. The Australian proposal was, however, defeated.

SUSPENSION AND EXPULSION

The Dumbarton Oaks Proposals provided for the suspension of Members against whom preventive or enforcement action had been taken by the Security Council and for the expulsion of Members who persistently violated the Charter.

Canadian delegates were among those who opposed the expulsion clause on the ground that suspension was preferable in each of the contingencies mentioned. Expulsion would release a recalcitrant Member from its obligations to the Organization, while suspension would not. Moreover, when the occasion for discipline had passed, a suspended Member could be reinstated more easily than one who had been expelled, and it was desirable to keep the membership to as high a total as considerations of safety and solidarity permitted.

The Sponsoring Powers and a number of other delegations disagreed with this view. They held it to be important that the Organization should have power to deal drastically with an incorrigible Member who gravely violated the Principles of the Charter or who acted in collusion with non-Members to obstruct the Organization and its Purposes. If such states were to be merely suspended, the Organization might hesitate to take really effective action against them. It was preferable that from the outset the Organization should make clear its intention to deal effectively with a persistent violator of the Principles of the Charter.

The first decision, reached on May 25, went against the Sponsoring Powers, who were not able to muster the required two-thirds majority in favour of retaining the Dumbarton Oaks formula providing for both suspension and expulsion. It was assumed for some time, therefore, that suspension rather than expulsion would be the penalty for persistent violation of the Charter. In the second week of June, however, the Executive and Steering Committees, acting on a request of the Soviet delegation, asked the committee concerned to reconsider the question. The committee agreed to insert in the Charter the Dumbarton Oaks provision for expulsion; Canada abstained from voting on the motion. The substance of the Dumbarton Oaks provisions on expulsion and suspension was accordingly written into the Charter as the Sponsoring Powers desired. (Article 5 and 6.)

WITHDRAWAL

In the Dumbarton Oaks Proposals no provision was made for withdrawal from the Organization. At San Francisco this deliberate omission was discussed, along with the possibility of either prohibiting or limiting withdrawal by a

specific clause of the Charter. Uruguay championed the doctrine of universality and asked for direct prohibition of withdrawal. It was argued, however, that this would necessitate the application of sanctions against any state which tried to withdraw and that it would then be difficult for many Governments to secure ratification of the Charter. The Uruguayan proposal, moreover, ignored the risk that the United Nations might fail to provide security.

On May 23 the committee adopted a declaration to the following effect: withdrawal should be neither provided for nor regulated in the Charter itself; if the Organization fulfilled its function in the spirit of the Charter, it would be inadmissible that its authority could be weakened by withdrawals; on the other hand, if the Organization proved unable to maintain peace, or could do so only at the expense of law and justice, withdrawal would become inevitable.

The whole question of withdrawal was reopened in mid-June when it became apparent that the Great Powers would insist that each of them have the right to veto the coming into force of any amendment to the Charter. This would be the case whether the amendment had been adopted in accordance with ordinary processes or at a General Revisionary Conference, whether it was an important amendment or an unimportant amendment, and whether or not it had been ratified by all the other Members of the Organization, including the other four Great Powers.

The unlimited extent of this veto over amendments met with strong opposition from the middle and small powers. They argued that they were agreeing to an imperfect Charter in the expectation that its imperfections would in course of time be remedied by constitutional amendment. It was quite a different thing for them to ask their countries to commit themselves to perpetual membership in an Organization whose defects might also be perpetual. The decision of the Great Powers thus left the other states with no alternative but to insist on a right to withdraw from the Organization.

The Canadian Position

The Canadian representative at the meeting of the committee on June 16 urged the committee not to make withdrawal from the Organization too easy.

Approval by the Conference of a broad right of withdrawal would make it easier to get out of the new Organization than out of almost any previous international organization. It would nullify the suspension provisions of the Charter because a state would resign rather than be suspended. [It would likewise nullify the expulsion provisions of the Charter but, at the time the Canadian representative made his statement, the draft Charter did not contain a provision for expulsion.] It would also have a serious effect on those two attributes of the Organization which the Sponsoring Powers had themselves so consistently and so rightly emphasized—permanence and universality.

It was obvious, however, that if the Great Power veto over amendments stood, there would have to be written into the Charter or into the report of the committee a more explicit right of withdrawal than otherwise would have been necessary. This situation would not have arisen if the Great Powers had accepted the proposal that the question of their right to veto an amendment adopted by the General Revisionary Conference should be deferred until the Revisionary Conference met,

The Canadian delegation argued that the right of withdrawal should be restricted to a right of any Member to withdraw from the Organization if it were dissatisfied with the results of the General Revisionary Conference.

Decision of the Conference

On the following day the discussion on withdrawal was concluded. The only difference of opinion in the committee was on whether the right of with-

drawal should be written into the Charter or set forth in an agreed commentary to be incorporated in the rapporteur's report. The Ecuadorean delegation proposed that the following Article be inserted in the Charter:

> Nothing in this Charter should preclude the right of a Member to withdraw from the Organization if its rights and obligations as such were changed by Charter amendment in which it has not concurred and which it finds itself unable to accept, or if an amendment duly accepted by the necessary majority in the Assembly or in a general conference fails to secure the ratification necessary to bring such amendment into effect.

The Canadian representative stated that the Canadian delegation did not favour mentioning the right of withdrawal in the Charter. He suggested that before voting on the Ecuadorean motion, the committee decide the simple question of principle—whether or not withdrawal should be mentioned in the Charter.

This suggestion was accepted and, after discussion, a vote was taken showing 19 in favour of mentioning withdrawal in the Charter and 24 against. The committee then approved of a commentary on withdrawal. This commentary was embodied in the report of the rapporteur of Commission I to the Conference. The relevant section of the rapporteur's report reads as follows:

> The Commission does not recommend any text on withdrawal for inclusion in the Charter. However, the absence of such a clause is not intended to impair the right of withdrawal, which each state possesses on the basis of the principle of the sovereign equality of the Members. The Commission would deplore any reckless or wanton exercise of the right of withdrawal but recognizes that, under certain exceptional circumstances, a state may feel itself compelled to exercise this right. Consequently, Commission I has included the following commentary on withdrawal, as recommended by Committee I/2, with some changes in its wording:
>
> > The Committee adopts the view that the Charter should not make express provision either to permit or to prohibit withdrawal from the Organization. The Committee deems that the highest duty of the nations which will become Members is to continue their co-operation within the Organization for the preservation of international peace and security. If, however, a Member because of exceptional circumstances feels constrained to withdraw, and leave the burden of maintaining international peace and security on the other Members, it is not the purpose of the Organization to compel that Member to continue its co-operation in the Organization.
> >
> > It is obvious, particularly, that withdrawals or some other forms of dissolution of the Organization would become inevitable if, deceiving the hopes of humanity, the Organization was revealed to be unable to maintain peace or could do so only at the expense of law and justice.
> >
> > Nor would a Member be bound to remain in the Organization if its rights and obligations as such were changed by Charter amendment in which it has not concurred and which it finds itself unable to accept, or if an amendment duly accepted by the necessary majority in the Assembly or in a general conference fails to secure the ratification necessary to bring such amendment into effect.
> >
> > It is for these considerations that the Committee has decided to abstain from recommending insertion in the Charter of a formal clause specifically forbidding or permitting withdrawal.

The precise legal validity and the meaning of this commentary on withdrawal have been discussed at some length before the Committee on Foreign Relations of the United States Senate. Mr. Green H. Hackworth, the Legal Adviser of the Department of State, stated in answer to a question that the

commentary "had equal dignity as if it had been put in the Charter", it was "something that would stand on an equal footing with the Charter itself". Mr. Hackworth went on to say that the list of legitimate reasons for withdrawal given in the commentary was not exclusive. "I think there is abundant authority here [in the commentary] for the proposition that a state may withdraw at any time it sees fit." (1)

Senator Vandenberg, at the previous meeting of the Foreign Relations Committee, advanced the following statement of the United States position in the event that the United States wishes to withdraw:

> *First,* the United States can withdraw at its own unrestricted option. Its only obligation is to state the reasons.
>
> *Second,* the only penalty is in the adverse public opinion if our reasons do not satisfy the conscience of the world, and the action of the San Francisco Conference simply suggests certain criteria upon this score.
>
> *Third,* when we withdraw, we are simply in the same position as if we had never joined; namely, we are subject to the Organization's discipline if we threaten the peace and security of the world.

Dr. Leo Pasvolsky, the State Department's chief expert on the Charter, agreed with Senator Vandenberg's statement of the position. (2)

Organs

(Chapter III of the Charter)

The principal organs of the United Nations listed in the Dumbarton Oaks Proposals were a General Assembly, a Security Council, an International Court of Justice, and a Secretariat. To these were added at San Francisco an Economic and Social Council and a Trusteeship Council. (Article 7.)

The Uruguayan delegation proposed that the following Article be added to Chapter III of the Charter:

> Representation and participation in the organs of the Organization shall be open both to men and women under the same conditions.

After prolonged discussion this was rephrased to read:

> The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs. (Article 8.)

The General Assembly

(Chapter IV of the Charter)

THE CANADIAN POSITION

The general position of the Canadian delegation on the role of the General Assembly in the Organization was clearly defined by the Canadian representative on the committee on the political and security functions of the General Assembly, at one of the early meetings of the committee, and was maintained throughout the Conference. It can be summarized as follows:

The powers of the General Assembly should be as wide as possible. The responsibility for settling disputes between states must, however, be put squarely on the shoulders of the Security Council. In order to place responsibility where it belongs and to avoid divided or concurrent jurisdiction and jurisdictional disputes which will play into the hands of trouble-making states, it is necessary to place

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(1) Hearings, July 10, 1945 (unrevised) pp. 394-7.
(2) Hearings, July 9, 1945 (unrevised) p. 129.

one important limitation on the powers of the General Assembly. The General Assembly should not, on its own initiative, be able to make recommendations on a matter relating to the maintenance of international peace and security which is being dealt with actively and effectively by the Security Council. If because of the use of the Great Power veto or for some other reason the Security Council is unable to act, provision must be made to ensure that the General Assembly can take over as quickly and effectively as possible the task of maintaining order and restoring peace.

FUNCTIONS AND POWERS OF THE GENERAL ASSEMBLY

The two most important provisions in the chapter of the Charter on the functions and powers of the General Assembly (Articles 10-17) are Article 10 and the first paragraph of Article 12. To a great extent the remaining provisions of this chapter do little more than make the implications of these two key provisions more precise.

Article 10 reads as follows:

> The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

The first paragraph of Article 12 reads as follows:

> While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

Since these are key provisions in the Charter, agreement was reached on their final form only after much debate.

The Canadian position with regard to the role of the General Assembly in the Organization logically resulted in the Canadian representative casting his vote in favour of the limitation on the powers of the General Assembly set forth in the first paragraph of Article 12. The vote was 26 in favour of the limitation and 16 against.

The logic of the Canadian position likewise resulted in the Canadian representative supporting proposals to amplify the powers of the General Assembly beyond those set forth in the Dumbarton Oaks draft, provided that any amplification of powers was subject to the limitation contained in Article 12.

The most important of these proposals was that the section in the Dumbarton Oaks draft which corresponds to Article 10 should be reworded to give wider powers to the General Assembly. The Dumbarton Oaks Proposals had spoken of the right of the General Assembly to discuss and make recommendations on "any questions relating to the maintenance of international peace and security". It was proposed at the San Francisco Conference that there be substituted for this phrase the words "any matters affecting international relations". The Great Powers opposed this proposal, but it was carried by a vote of 29 to 11. Canada voted with the majority.

Towards the end of the Conference, as the result of a request of the Soviet delegation, the language was changed to that which now appears in Article 10 of the Charter.

CONVENTIONS

Among the other proposals to amplify the powers of the General Assembly which Canada supported was one to give the General Assembly explicit power to submit general conventions to states for their approval. Owing to Great

Power opposition, this failed to secure the necessary two-thirds majority, the vote being 25 in favour and 13 opposed. But though this proposal was defeated, it is clear that the General Assembly possesses an implied power to propose conventions.[29] This follows not only from the general grant of power in Chapters IV and IX, but also from the grant of power in Article 62 to the Economic and Social Council to propose draft conventions for submission to the General Assembly. The purpose of this Article would be frustrated if the General Assembly, in its turn, could not propose to the Members of the Organization that they adopt these conventions.

RELATIONSHIP OF THE GENERAL ASSEMBLY TO THE SECURITY COUNCIL

The Security Council is not a creature of the General Assembly. It is not responsible to the General Assembly. It is not an executive committee of the General Assembly. It is a co-ordinate body whose powers, like those of the General Assembly, stem from the Charter itself.

One of the main problems before the committee on the political and security functions of the General Assembly was how to maintain this equality of status and difference in function while at the same time providing for co-operation between the two bodies.

It was clear on the one hand that the Security Council ought to be under an obligation to make reports to the General Assembly, and the Canadian delegation successfully moved an amendment to this effect. (Article 24:3.) On the other hand, it seemed to the Canadian delegation unwise and even dangerous to put into the Charter provisions under which the General Assembly would be granted power to subject the Security Council to a sort of inquisition. Such provisions would imply a lack of confidence between the Security Council and the General Assembly and were out of place in a Charter which could succeed only if the two bodies had confidence in each other.

The Canadian representative therefore spoke strongly against a proposal that the Canadian amendment providing that the Security Council should submit annual and special reports to the General Assembly should have added to it a provision that these reports should "set forth a detailed account, with reasons, of all of its [the Security Council's] acts and decisions". The vote on the proposal was 21 in favour and 16 against. It therefore failed to secure the necessary two-thirds majority, and the provision in the chapter on the General Assembly (Article 15:1) which corresponds to the Canadian amendment in the chapter on the Security Council (Article 24:3) was, at the end, drafted in neutral language. It now reads that the Security Council's reports to the General Assembly "shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security".

The General Assembly may not make a recommendation on a dispute or situation while the Security Council is dealing with it, unless the Security Council requests it to do so. Hence fears were expressed at the Conference that the Security Council might, while doing nothing about a dispute or situation itself, keep it on its agenda in an effort to prevent the General Assembly from making a recommendation on it. It was therefore proposed that the Secretary-General should be required to notify the General Assembly, or the Members of the United Nations if the General Assembly was not in session, immediately the Security Council ceased to deal with a matter relative to the maintenance of international peace and security. Canada supported this proposal. The Great Powers agreed to it on condition that the Secretary-General should not act under it without the consent of the Security Council. In this modified form it was included in the Charter as paragraph 2 of Article 12.

This qualification to the provision, however, seems to make little real difference. The question whether the Security Council is exercising in respect

of any dispute or situation the functions assigned to it in the Charter is a question of fact which the General Assembly or the Members of the Organization are presumably capable of deciding by themselves.

PEACEFUL ADJUSTMENT AND TREATY REVISION

An important amendment to the Dumbarton Oaks Proposals gives the General Assembly power, subject to the limitations of paragraph 1 of Article 12, to "recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations". (Article 14.) This amendment was submitted to the committee on the political and security functions of the General Assembly by Senator Vandenberg on behalf of the five Great Powers.

Several amendments were submitted to the Conference to provide explicitly that the General Assembly should have the right to recommend the revision of treaties. A long debate followed which revolved around the meaning of the phrase "any situation, regardless of origin", as used in Article 14. The United States delegation took the position that explicit reference to the revision of treaties would throw the weight of the Organization too heavily on the side of revision and encourage changes beyond the necessity of the situation. It was, moreover, inconsistent to launch an international organization based on international integrity and at the same time intimate any lack of respect for treaties. The subject of treaty revision was not, however, foreclosed to the General Assembly. A threat to the general welfare or to friendly relations among nations might arise from a treaty or from a situation having no relation to a treaty. In either event, the threat would be a matter of concern to the General Assembly which could, therefore, under Article 14, make a recommendation on it.

A motion was made that the amendments providing for an explicit mention of treaty revision should be withdrawn from debate. The Canadian representative supported this motion, urging that the question of revision was more widely and wisely covered by Article 14 than it could be by a specific reference, and that any attempt to make the language of Article 14 more precise might well result in weakening the Article. The motion was adopted by a vote of 37 to 1.

APPORTIONMENT OF EXPENSES AND APPROVAL OF THE BUDGET OF THE ORGANIZATION

Canada supported the view of the majority of the committee that the Charter should not specify the method of apportioning expenses, but that this should be left to the General Assembly to determine. (Article 17.)

Australia moved that the Dumbarton Oaks Proposals should be extended to provide that the General Assembly should direct the preparation of the budget of the Organization by the Secretary-General and provide for the examination of the budget by a qualified advisory agency. Canada voted in favour of this proposal, which was rejected on the ground that the Charter should be held as much as possible to a description of fundamental powers and functions and that the General Assembly could safely be left to take care of details by adopting regulations to supplement the Charter.

VOTING

Loss of Voting Rights in the Assembly

Canada voted in favour of the proposal that a Member of the Organization which was two years in arrears in the payment of its financial contributions

should automatically be deprived of its vote in the General Assembly unless the General Assembly waived the penalty on the ground that the failure was due to conditions beyond the control of the Member. No opposition was expressed to this proposal which was adopted. (Article 19.)

Canada spoke against an Australian proposal to deprive a state of voting rights in the General Assembly if it failed to make a special military agreement with the Security Council under Article 43. At the time Australia made its proposal, the text of Article 43 had not been finally established. The basis of the Canadian opposition was that the Australian proposal could not usefully be discussed until this had been done. Subsequently, Australia withdrew its amendment.

The Costa Rican delegation proposed that no Member of the Organization to which acts of aggression had been attributed should vote in its own case in the Assembly. This was opposed on the ground that questions relating to the determination of aggression were to be decided by the Security Council and were, therefore, outside the competence of a Conference committee dealing with the Assembly. The Costa Rican proposal was rejected by a vote of 5 to 20, the Canadian representative abstaining from voting. A Chilean proposal that parties to a dispute being considered by the Assembly should abstain from voting was likewise rejected by a vote of 7 to 21, the Canadian representative abstaining.

PROCEDURE

Place of Meeting of the General Assembly

The committee was apparently almost unanimous in its belief that the General Assembly should, save in exceptional circumstances, meet at the headquarters of the Organization. But no change was made in the Dumbarton Oaks Proposals which made no mention of the place of meeting of the Assembly. A Brazilian amendment specifying that the headquarters of the General Assembly should be the seat of the Organization, but that the General Assembly could meet in another place if it so desired, was rejected by a vote of 19 to 13. The voting on this amendment was confused. Some of those who voted in favour, including the Canadian representative, did so on the ground that the amendment would establish the general principle that the Assembly should meet at the headquarters of the Organization. Some who voted against did so on the ground that the Brazilian amendment implied that sessions of the General Assembly at places other than its permanent headquarters would be considered to be normal.

Open Sessions of the Assembly

The delegate of Peru moved on June 8 that the following provision be inserted in the chapter on the General Assembly:

> The sessions of the General Assembly shall be open to the public and to the press of the world. In exceptional cases the General Assembly may determine whether it is prudent to modify this rule.

The representatives of all five Great Powers spoke against this amendment. They expressed their full agreement with the principle contained in it, but objected to its inclusion in the Charter on the ground that it was a procedural matter which should be dealt with in the regulations of the General Assembly. Since the Peruvian motion appeared to have the support of a majority of the other delegations, there was danger that a vote on it would be misinterpreted outside the Conference. The Canadian representative, therefore, made the following statement:

> It is essential that this committee make clear its belief in the principle that the sessions of the General Assembly be open to the press and public

of the world. It is likewise essential that this committee make its belief clear by a unanimous vote. From the speeches which have already been made, it is obvious that the Peruvian proposal to incorporate the principle in the Charter will not receive unanimous approval. The public of the world will not understand this. Therefore, as a substitute for the Peruvian motion I propose the following motion:

> That the Rapporteur of this Committee be instructed to state in his report that this Committee is of the opinion that regulations to be adopted at the first session of the General Assembly shall provide that, save in exceptional cases, the sessions of the General Assembly shall be open to the public and the press of the world.

The Chairman decided to put the Peruvian motion first and, if it were rejected, then the Canadian motion. This enabled many delegates to vote against the Peruvian motion on the ground that it would be better to adopt the Canadian motion by unanimity than the Peruvian motion on a split vote. The Peruvian motion was defeated by a vote of 15 to 22 and the Canadian motion adopted by a vote of 34 to 0 with the U.S.S.R. abstaining. The delegate of the U.S.S.R. stated that his delegation had abstained from voting on the Canadian motion since such a resolution would be without force or effect unless it were ratified by the Governments of the participating countries and that it would not be submitted to them for ratification.

The Security Council

(Chapter V of the Charter)

Both the wide powers given to the Security Council and the special position of the Great Powers on the Council are based on the recognition at the Dumbarton Oaks meeting that the foundation of any permanent security system is the continued collaboration of the greatest military powers. The overriding necessity for unity of action among the Great Powers determined the approach of the authors of the Dumbarton Oaks Proposals to the problem of setting up a Security Council charged with the "primary responsibility for the maintenance of international peace and security". It is the purpose of the Security Council to achieve the peaceful solution of international disagreements and only as a last resort to apply economic and armed force.

This conception of the Security Council's composition and functions was very generally accepted by the states particating in the San Francisco Conference. It was common ground that without united action by the Great Powers the Organization could not be made to function. That was one of the lessons learned from the experience of the League of Nations, but difficult and delicate problems still remained to be solved by the Conference in connection with the powers and organization of the Security Council.

The debate on these questions at San Francisco involved three principal issues. In the first place, the smaller states pointed out that under the voting formula adopted at Yalta, any one Great Power was in a position to paralyze the activities of the Council. It was widely acknowledged that unanimity among the Great Powers would be necessary before the Council could take enforcement action, but it was urged that the power of the permanent members of the Council to make use of the veto should not apply to the provisions for the peaceful settlement of disputes. It was in this form that the major controversy over the veto power developed.

In the second place, the smaller states pointed out that although the Organization was founded on the sovereign equality of all its Members, in practice the Great Powers who were permanent members of the Council possessed, by virtue of the veto, a privileged position which was not shared by other Members of the Organization.

In the third place, the states of middle power but with wide international interests, such as Canada, considered that some distinction in function would have to be made between these middle states, which had a considerable and indeed essential contribution to make to the Organization, and the smallest and weakest states.

The issues involved in the consideration of this chapter of the Charter thus affect the relations both of the Great Powers among themselves and of the Great Powers with the other Members of the United Nations.

COMPOSITION OF THE SECURITY COUNCIL

The composition of the Security Council had been laid down in the Dumbarton Oaks Proposals. It is to consist of eleven members, of which the permanent members are to be China, France, the Soviet Union, the United Kingdom and the United States. The position of France had not been finally regulated at the time of the Dumbarton Oaks meeting. The Dumbarton Oaks Proposals, therefore, contained a reference to the permanent membership "in due course" of France on the Security Council. At San Francisco Canada took the initiative in proposing that the words "in due course" should be eliminated from this paragraph of the Charter so that France should be restored to her rightful place among the Great Powers. The Canadian proposal received the support of the Conference.

Non-Permanent Members of the Council

Article 23, paragraph 1, provides that the General Assembly shall elect the six non-permanent members of the Security Council. The circumstances of the election of these non-permanent members were of particular interest to Canada, and indeed to a number of other states which like Canada were in the middle position between the great and the small states. The Canadian delegation felt that the position as stated in the original Dumbarton Oaks Proposals was unsatisfactory in that there was no qualification for eligibility for election to the Council. The principle that power was to be combined with responsibility was recognized in the permanent membership of the Great Powers on the Council. It was suggested that the application of this principle should be carried a step further, and that among the six elected to the Council there should be several states which could make a really substantial contribution to the purposes of the Organization.

Accordingly, the Canadian delegation pressed strongly in the Conference committee which dealt with this question for the adoption of some qualifying rules for election to the Council which would recognize the need for a functional approach to the problem. This attitude was warmly supported by a number of other delegations at the San Francisco Conference. As a result the Sponsoring Powers introduced an amendment which now finds its place as the final phrase of the first paragraph of Article 23 of the Charter. This paragraph, while it does not lay down detailed rules for the election of non-permanent members, directs that in the election of non-permanent members of the Security Council due regard should be "specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution". It was explained by the representative of the Sponsoring Powers who introduced this amendment that the phrase "in the first instance" at the beginning of the amendment, applied to the first criterion for the election of non-permanent members; that is, "to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization", whereas "equitable geographical distribution" was a secondary consideration.

Temporary Membership in the Security Council

Article 31 of the Charter provides for the participation of any Member of the United Nations not a member of the Security Council in the discussion of any question brought before the Security Council which the Security Council considers specially to affect the interests of that Member. But on the occasions when the Member is invited to participate, it does not possess the right to vote.

The Canadian delegation, in common with many other delegations at the Conference, attached considerable importance to this provision and would have preferred to see it strengthened so that temporary membership with full voting power would have been accorded as a matter of right to all Members of the Organization when the Security Council was considering matters specially affecting their interests. A provision along these lines was included in the Covenant of the League of Nations and in practice did not give rise to any difficulties. A Canadian amendment drawn up with this object in view was, however, opposed in the Conference committee by the representatives of the Great Powers on the grounds that it would destroy the principle of the permanent composition of the Security Council and would undermine the voting formula agreed to at Yalta. The Canadian delegation therefore decided to withdraw this amendment.

However, the extremely important Canadian amendment now incorporated in the Charter as Article 44 was adopted. (See below, pages 37 to 39.) This Article insures that in the most important case in which a state's interests could be involved, that is, the contribution of its armed forces to peace enforcement action, that state, even though not a member of the Security Council, should have the right to sit and vote as a member in the decisions concerning the employment of its own forces.

Article 32 provides that the Security Council shall invite any Member of the Organization not having a seat on the Council and any state not a Member of the Organization, to participate in discussion if it is party to a dispute under consideration in the Council. States not members of the Security Council participating in discussions would not have the right to vote.

This Article was also the subject of a good deal of discussion at San Francisco. The Canadian and Netherlands delegations, among others, favoured certain changes in the text on the ground that it was not desirable that a member of the Security Council, when a party to a dispute, should be a judge in its own case while the other party to the dispute was not accorded the same voting rights. It seemed to the Canadian delegation to be a matter of justice and fair play that both parties to a dispute should have equality in voting status.

Proposals for changing the wording of the paragraph to meet these criticisms failed of acceptance. They were opposed on the grounds that their adoption would upset the balance of voting in the Security Council and would give a party to a dispute not a member of the Security Council greater privileges than other Members of the Organization, and finally, would have the effect of altering the composition of the Security Council itself.

VOTING IN THE SECURITY COUNCIL

No part of the work of the Conference aroused so much controversy or received so much publicity as the great series of debates over the voting formula in the Security Council, which had been adopted by the United States, the United Kingdom and the Soviet Union at Yalta, and which was submitted to the full Conference at San Francisco for discussion and approval.

In order fully to appreciate the nature of the question involved in the controversy over the "veto question", it is necessary to have in mind the broad outlines of the voting system which eventually emerged from Yalta as a compromise between the divergent views of the Great Powers themselves.

Under that system, when a question under consideration is one of procedure, the vote of any seven members, whether permanent or non-permanent, is decisive. On all matters other than procedural questions, decisions of the Security Council must be made by an affirmative vote of seven members, including those of all of the permanent members, except that in decisions with respect to the peaceful settlement of disputes (Articles 33-38) and under paragraph 3 of Article 52, a party or parties to a dispute must abstain from voting.

It clearly results from the adoption of this voting formula that any one permanent member of the Security Council has wide powers of veto over the many and varied activities of the Organization which depend upon decisions taken in the Security Council. As will be seen from the other chapters of this report, the veto power of the permanent members of the Council extends into many fields and affects the entire character of the Organization.

It was not to be expected that an arrangement of this kind would be received with any great enthusiasm by states other than the Great Powers, and in fact the special voting rights of the permanent members were attacked with vigour, persistence and eloquence by the representatives of many of the middle and smaller states at San Francisco. While most of these states were prepared to admit the necessity for the unanimity of the Great Powers in applying coercive measures for the maintenance of peace, they were opposed to many other aspects of the veto power and, in particular, to its extension to cover the field of peaceful settlement of disputes (Chapter VI of the Charter).

In the course of the debate, the critics of the Yalta voting formula put forward a series of questions as to its application in the form of a questionnaire addressed to the Sponsoring Powers. The Sponsoring Powers thereupon undertook the preparation of a joint statement designed to afford an official interpretation of the voting arrangement. While the preparation of this statement was proceeding, a difference of interpretation arose between the Great Powers themselves. They had reached agreement that the rule of unanimity of the permanent members must apply to decisions of the Security Council during the stage of peaceful settlement as well as during enforcement. But the difficulty arose over the question as to whether under the formula any one permanent member not a party to a given dispute could prevent the consideration and discussion of this dispute by the Council. The United Kingdom, the United States, China and France shared the view that no one member could prevent such discussion. The delegation of the Soviet Union, on the other hand, took the attitude that the discussion and consideration of a dispute in the Security Council should be treated as a substantive rather than as a procedural matter, and would therefore require the unanimous vote of all the permanent members. After prolonged discussion the Soviet Government agreed to accept the view that full discussion and consideration of any situation brought before the Security Council should be permitted before any one permanent member could prevent further action by the Security Council with respect to the dispute. The principal portion of the joint statement of the Sponsoring Powers with which France associated itself will be found in Appendix D.

The presentation of the joint statement to the Conference left many delegations unsatisfied as they still could not approve the application of the rule of unanimity of the Great Powers to the peaceful settlement provisions of the Charter. Many delegations had proposed amendments to alter the voting procedure, several of them with the object of removing the process of pacific settlement from the requirement of unanimity of the permanent members. Among these was an Australian amendment, which had enlisted considerable support and which was put forward again in a revised form after the issuance of the Sponsoring Powers' statement. This amendment was finally and after long debate rejected by the Conference.

The attitude of the Canadian delegation throughout the controversy over the veto power was governed by two main considerations. (1) In the first place, it felt that the veto power, particularly insofar as it applied to the peaceful settlement provisions of the Charter, was undesirable and unnecessary. It feared, moreover, that the position taken by the Sponsoring Powers over this question would seriously weaken the Security Council itself. The Canadian delegation therefore supported the original Australian amendment to except the peaceful settlement chapter from the veto power of the permanent members. (2) At the same time it was recognized clearly that this was a question which went to the root of co-operation between the Great Powers, and that the decision involved was an essentially political decision as to what was possible of achievement in the way of compromise both between the Great Powers themselves and between the Great Powers and the other United Nations. When it became apparent that the joint statement of the Sponsoring Powers interpreting the voting formula represented the greatest possible measure of agreement which could be attained among them at this time on this subject, the Canadian delegation took the view that, while they could not accept the interpretation of the voting procedure as satisfactory, it was not too high a price to pay for a world organization which was good in other respects. Accordingly, when the Australian amendment was brought forward in its revised form after the Sponsoring Powers' statement had been presented to the Conference, the Canadian delegation did not oppose the adoption of the Yalta voting formula and abstained from voting on amendments to that text.

The Canadian delegation were influenced in their decisions in this matter by the statements of the Great Powers that their special voting position would be used with a sense of responsibility and consideration for the interests of the smaller states, and that therefore the veto would be used sparingly. The Canadian delegation also trusted that in due course the decisions of the Council might build up a kind of common law which would eventually be incorporated in the Charter itself, and that in this way more satisfactory procedures might come to be established. There was the further consideration that it is possible to exaggerate the importance of formal voting arrangements in the Council. For example, during the whole course of the Conference the Great Powers had been able to work together without taking formal votes.

THE SECURITY COUNCIL AND THE GENERAL ASSEMBLY

One of the most marked and novel features of the ground plan for a Security Organization as it was contained in the Dumbarton Oaks Proposals was the special position given to the Security Council and the relationship established between it and the General Assembly. Under the League Covenant the Assembly and the Council had concurrent jurisdiction over the peaceful settlement of disputes and the taking of enforcement action, whereas under the new system, as finally incorporated in the Charter, the primary responsibility for the maintenance of peace is concentrated in the Security Council and within certain well-defined limits the Council has the power to direct Members to take action to enforce peace. Moreover, the Council will have behind its decisions an overwhelming superiority of armed force.

This conception of the role and functions of the Security Council was accepted by most of the states represented at San Francisco as both more realistic and more likely to prove effective in deterring aggression than the League system. On these grounds the Canadian delegation fully approved the special functions accorded to the Council in dealing with disputes. They realized that such a pattern of responsibility would be incompatible with the assignment of primary responsibility to the General Assembly in dealing with disputes, or

with the granting of a negative veto to the General Assembly over the decisions of the Security Council. On the other hand, they felt that clarification was needed at certain points of the relationship between the Security Council and the General Assembly. It was for this reason that the Canadian delegation put forward the amendment mentioned on page 25 to the effect that the Security Council should submit annual and, when necessary, special reports to the General Assembly for its consideration. This Canadian amendment was adopted unanimously and now appears as Article 24, paragraph 3, in the Charter.

OBLIGATIONS OF MEMBER STATES

The general obligation of Members to carry out the decisions of the Security Council "in accordance with the present Charter" is contained in Article 25. The Canadian delegation was anxious to clarify as far as possible the nature of the obligations implied by this general clause. Their view was shared by many delegations who naturally wished to have as precise as possible a definition of the obligations which their countries were called upon to assume. The Conference decided, and this view was shared by both the great and smaller states, that the precise extent of the obligations of Members under Article 25 was to be determined by reference to the specific obligations assumed by Members in other parts of the Charter. The debates at San Francisco and the statements made by the Sponsoring Powers at the Conference emphasized that the general provisions of the Charter must be read in conjunction with the specific definitions of rights and obligations contained in the various parts of the Charter. It is also clear that decisions of the Security Council are binding only insofar as they relate to the prevention or suppression of breaches of the peace. With respect to the pacific settlement of disputes, the Council's powers are limited to recommendation. So far as enforcement measures are concerned, the character and extent of the military obligations which Members assume will, of course, be determined by the special agreements to be negotiated under Article 43.

Pacific Settlement of Disputes

(Chapter VI of the Charter)

Chapter VI gives the Security Council power to encourage the peaceful settlement of international disputes. The Security Council is also given certain powers to deal with situations likely to endanger the maintenance of international peace and security. Under this chapter it has no coercive powers; a state is not bound to carry out its recommendations. Nevertheless, this chapter can, if its provisions are fully utilized, become the most important part of the Charter.

The possibility of its effective use depends on four things. The first is a willingness by the Security Council to employ its powers or, put in a different way, the willingness of each of its five permanent members to refrain from vetoing the use by the Security Council of its powers.

The second is a wise use by the Security Council of its large discretion under this chapter. It is, for example, empowered in certain circumstances to recommend the actual terms of settlement of a dispute. The nature of the principles which the Security Council should follow in arriving at its recommendations is left to its discretion. The Security Council will have to demonstrate that in its capacity as conciliator it can keep the balance between practical political considerations and regard for world opinion and the principles of justice and fair dealing.

The third is that states act on the recommendations which the Security Council makes to them.

The fourth is that, so far as possible, the Security Council should deal with potential threats to the peace while they are still "situations" and before they become "disputes".

Pacific Settlement and the Veto

So far as the pacific settlement of disputes is concerned, the main question which the Conference had to face was how far a Great Power should have the right to veto the use of the provisions of Chapter VI. The Canadian representative on the Conference committee urged that the Charter should provide in clear and unambiguous language that a Great Power should not have the right to veto the application of any of the provisions of the chapter. (See above, pages 30 to 32 for discussion of the veto question.)

Obscurities in the Dumbarton Oaks Proposals

The Dumbarton Oaks Proposals on the pacific settlement of disputes were far from clearly drafted. Many delegations expressed concern about this and some clarification in the provisions was made at San Francisco. The language of the chapter, however, still requires further clarification and the Articles could be arranged in more logical order. In view of the continuing obscurities in the chapter, it would seem useful to explain its provisions as read in the light of other provisions of the Charter.

Provisions of Pacific Settlement

The Members of the United Nations undertake to do two things. The first is that if they are parties to any international dispute, they will seek a solution by peaceful means of their own choice so that the maintenance of international peace and security will not be endangered. (Article 2, paragraph 3; Article 33, paragraph 1.) The second is that if they are parties to a dispute which endangers international peace and security and they fail to settle it by peaceful means of their own choice, they will refer it to the Security Council. (Article 37, paragraph 1.)

These are the two undertakings of Members. The rest of the chapter is concerned with ways in which disputes or situations can be brought to the attention of the Security Council other than by the parties to them, and what the Security Council does once it decides to consider a dispute.

Any Member, or the Secretary-General or the General Assembly, may bring to the attention of the Security Council any dispute or any situation, provided that the situation is one which might lead to international friction or give rise to a dispute. (Article 11, paragraph 3; Article 35, paragraph 1; Article 99.) A state which is not a Member may bring to the attention of the Security Council any dispute to which it is a party if it accepts in advance for the purposes of the dispute the two undertakings of Members. (Article 35, paragraph 2.)

Whether or not a dispute or situation has been brought to its attention, the Security Council must deal with it if it is one likely to endanger the maintenance of international peace and security, for the Members, under the Charter, have given the Security Council "primary responsibility for the maintenance of international peace and security". (Article 24, paragraph 1.)

Apart from one exception[1] the only disputes or situations which the Security Council *can* deal with are the disputes which it *must* deal with. Under this chapter it can deal only with disputes or situations which are likely to endanger international peace and security. Under Article 24 it must take action with regard to such a dispute or situation or fail to discharge the responsibility conferred on it.

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[1] Under Article 38 the Security Council may, if all the parties to *any* dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

The first step the Security Council must take, once it decides to consider a dispute or situation, is to determine whether the dispute or situation is one which it must deal with. This may require an investigation by the Security Council. (Article 34). Having decided that the dispute is one which it must deal with, the Security Council may do one or more of three things in any order it sees fit. It may remind the parties to a dispute of their undertaking to settle it by peaceful means of their own choice (Article 33, paragraph 2). It may recommend to the states concerned in a dispute or situation that they adopt those particular peaceful means which, in the opinion of the Security Council, seem to be most likely to succeed (Article 36, paragraph 1). It may recommend terms of settlement to the parties to a dispute (Article 37, paragraph 2).

Powers of the General Assembly

The General Assembly also has powers to deal with a dispute or situation. Disputes or situations may be brought to the attention of the General Assembly either by Members or by non-Members just as they can be brought to the attention of the Security Council (Article 35, paragraphs 1 and 2). The General Assembly's powers are to some extent even wider than the Security Council's since it is not limited to disputes or situations likely to endanger international peace and security, but can deal with any dispute or situation provided that it relates to the maintenance of international peace and security. The General Assembly can do all these things that the Security Council can do: it can discuss the dispute or situation at open public meetings and at small private committee meetings; it can investigate the dispute by calling witnesses before it and by sending a committee to make an enquiry on the spot; it can publish the recommendations submitted to it by its committee of enquiry. The only thing the General Assembly cannot do is to make a recommendation on a dispute or situation which is being dealt with by the Security Council. As soon as the Security Council ceases to deal with the dispute or situation, the General Assembly can make a recommendation on it. It can send its recommendation to the state or states concerned or to the Security Council or to both.

Enforcement Action

(Chapter VII of the Charter)

When the Dumbarton Oaks Proposals were first published, public attention was concentrated on that section of the Proposals which subsequently became Chapter VII of the Charter and which provides for the use of the combined forces of the United Nations against a peace-breaking state.

This section, however, had to be read along with the chapter on voting procedure in the Security Council. (See pages 30-32.) Under this procedure any one of the five Great Powers could veto the application of the enforcement arrangements. Thus the Organization could not in practice use force against a Great Power or indeed against any other state if one of the Great Powers exercised its veto.

The peace enforcement proposals were limited not only by the Yalta voting formula, but also by the Dumbarton Oaks Proposals on transitional arrangements. It was apparent from these Proposals that the Organization's enforcement powers were not to be used against enemy states.

The actual use of force under the Dumbarton Oaks Proposals was thus a remote contingency since the mere willingness of all the Great Powers to use force would ordinarily be sufficient to bring any conceivable combination of middle and small powers to heel.

In spite of this, to dismiss the enforcement section of the Dumbarton Oaks Proposals as unimportant would have been unrealistic and superficial. In course of time the Organization would assume responsibility for preventing renewed

acts of aggression by the ex-enemy states. Moreover, the Charter to be constructed on the basis of the Dumbarton Oaks Proposals was to be a beginning and not an end. It was to be the foundation of a new structure to create and preserve peace, not the whole vast completed edifice. If the Organization is to free the peoples of the world from the fear of war, it would eventually have to be given the right and the power to restrain any disturber of the world's peace.

THE ENFORCEMENT PROVISIONS OF THE CHARTER

The enforcement provisions of the Dumbarton Oaks Proposals were not altered in essential matters at the Conference. Chapter VII of the Charter, which deals with enforcement action, falls into four parts. Articles 39-42 give to the Security Council the powers necessary to deal with threats to the peace, breaches of the peace and acts of aggression. The next five Articles contain the provisions to enable the Council to employ military measures speedily and effectively, and deal with the agreements to be entered into by member states for the provision of specified armed forces, facilities and assistance to aid the Security Council in the task of keeping the peace. Articles 48, 49 and 50 outline certain general obligations of all Members in connection with enforcement action, and include a provision designed to assist member states which encounter special economic problems in fulfilling these obligations. Article 51 recognizes the right of Members to employ self-defence either individually or collectively if armed attack occurs against them.

These provisions therefore constitute a complete scheme of enforcement. Its outstanding feature is the concentration in the Security Council, acting on behalf of the Organization as a whole, of the primary responsibility for the maintenance of peace and security. In the discharge of its functions the Security Council has very wide discretion. It is the body which is to decide whether a threat to the peace, breach of the peace, or act of aggression exists, and once having come to its decision, it is free to choose whether to make recommendations to the parties to the dispute or to impose sanctions or to do both. All these decisions of the Security Council require an affirmative vote of seven of its members, including the concurring votes of the permanent members. It can also by virtue of Article 40 call upon parties to a dispute to take provisional measures to prevent the aggravation of the dispute. This Article, which was introduced as a result of an amendment put forward by the Sponsoring Powers at San Francisco, should not be regarded as envisaging preliminary sanctions, as the measures referred to in the Article are to be undertaken by the disputing parties upon the recommendation of the Council.

Proposals were made at San Francisco which would, if accepted, have had the effect of placing a share of the ultimate responsibility for peace and security in the General Assembly. For instance, it was suggested that the Council's decisions should not be accepted until they had been ratified by the Assembly. Other proposals were made to limit the discretion of the Council, as for example by providing definitions of aggression which would be binding on it. These proposals failed of acceptance.

The wide powers of the Security Council in dealing with threats to the peace only come into play in the event that peaceful means of settlement envisaged in Chapter VI have failed. The measures at its disposal in such an eventuality would include diplomatic and economic sanctions such as the severance of diplomatic relations, the interruption of communications, an embargo on trade, and other forms of pressure short of the use of armed force. The Security Council could call upon all Members of the Organization to join in the application of such measures.

If sanctions of this kind were still insufficient, the Security Council could in the last resort require forcible action against a disturber of the peace. In such action the Council would be aided by a Military Staff Committee which

would be in charge of plans for the application of armed force. The Military Staff Committee would also have certain responsibilities for dealing with long-term problems, including the regulation of armaments.

THE CANADIAN POSITION

The Canadian delegation in giving consideration to the enforcement provisions of the Charter was guided in the first place by the desire to see these provisions as effective as possible. It therefore decided to concentrate on three objectives: it would not support efforts to weaken the provisions of Dumbarton Oaks; it would try to secure the inclusion of an effective provision under which the armed forces pledged in its military agreement by a state not a member of the Security Council could only be called out by the Security Council after that state had effectively taken part in the decision; and it would try to secure clarification of the provisions on the negotiation of special military agreements.

"No Taxation without Representation"

The insistence by the Canadian delegation on the attainment of its second objective arose in large part out of disparity between the obligations of Great Powers and of other powers under the Dumbarton Oaks Proposals providing for the use of economic and armed force by the Security Council. The Yalta voting formula meant that the economic and armed forces of a Great Power could never be used by the Organization without the consent of its Government given through its representative on the Security Council, whereas the economic or armed forces of any other Member of the Organization could be used by the Organization without that state's consent provided that the five Great Powers and any two of the other six members of the Security Council decided to use these forces.

The Canadian delegation therefore proposed the following amendment to the Dumbarton Oaks Proposals:

> Any Member of the United Nations not represented on the Security Council shall be invited to send a representative to sit as a member at any meeting of the Security Council which is discussing under paragraph 4 above (Article 42) the use of the forces which it has undertaken to make available to the Security Council in accordance with the special agreement or agreements provided for in paragraph 5 above (Article 43).

Speaking to this amendment at the meeting of the committee on enforcement arrangements on May 10, the Rt. Hon. W. L. Mackenzie King said:

> The purpose of this amendment is clear—to provide that there shall be effective consultation between the Security Council and a Member not represented on the Council before that Member is called upon to despatch outside its own territories forces which it has undertaken to make available under the military agreements contemplated in paragraph 5. It seems certain that consultation would, in fact, have to take place, and we feel that a requirement of consultation should be included in the Charter itself.
>
> The powers which the proposals would vest in the Security Council to call upon all Members to join in the imposition of sanctions—military, economic and diplomatic—raise especially difficult problems for secondary countries with wide international interests. It is likely that if sanctions have to be imposed against an aggressor, the active collaboration of some states not on the Security Council will be needed. Let me contrast the position in this respect of the Great Powers on the one hand and of the secondary countries with world-wide interests on the other. Each Great Power is assured not only of full participation in the consideration of the dispute from the beginning, but it can itself prevent any decision to impose sanctions, even if it be in a minority of one in the Security Council. All the

other Members of the Organization are asked to obligate themselves in the Charter to carry out any decision of the Security Council, including decisions which might require them to send into action the forces which they are all expected to place at the Council's disposal, as well as decisions which might gravely disrupt their economic life. The Council could call upon any Member to do these things, and there is no assurance that the Member would be consulted rather than ordered to take action. I feel sure that whenever a particular Member was desired to take serious enforcement action, consultation would be a practical necessity. Therefore, the amendment which the Canadian delegation has proposed would not delay action, since it would only incorporate in the Charter itself a step towards action which would probably have to be taken in any event. Unless this need for consultation is recognized in some manner in the Charter, the process of securing public support for the ratification of the Charter will be made considerably more difficult in a number of countries other than the Great Powers.

This matter is obviously closely related to the contents of the military agreements which all member states would be expected to conclude as soon as possible. I should like to ask whether any state not assured of a seat on the Security Council could reasonably be expected to place at the Council's disposal a substantial contingent of its armed forces unless it knows that it will have some say in the use to which these forces are put. It is likely, indeed, that the adoption of the amendment which I have proposed will tend to increase considerably the forces made available for military sanctions by countries other than the Great Powers. I regard this amendment, therefore, as strengthening the authority of the Council by giving it a larger assured backing. I need scarcely say that no suggestion from the Canadian delegation is intended to imply any action which would lessen the contribution which Canada or any other country similarly situated would be expected to make under any of the provisions of the Charter. ....

In closing I should like to raise a general question which, it seems to me, has a bearing on all the discussions in this committee. Against what states would it be likely that the Security Council could take enforcement action under this chapter? Not against the Great Powers, since they are protected by their individual veto on Council decisions. Perhaps not against Germany and Japan, since the final paragraph of the Proposals seems to provide a means whereby a special system of sanctions against enemy states can be established in the event of their violation of the peace settlement. Is it correct to assume that what is really before this committee is the creation of an enforcement procedure which can only be employed against smaller states? I suggest that as much light as possible should be thrown on these matters in the course of our discussions.

The proposal thus brought forward by the Rt. Hon. W. L. Mackenzie King gave rise to much discussion and received general support. Its substance was finally incorporated in the Charter in Article 44, which reads as follows:

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Mr. Stettinius, the chairman of the United States delegation to the Conference, in his formal report to the President on the result of the Conference, had the following to say about the Canadian amendment:[1]

One significant and constructive change resulted from the debate, in the adoption of a wholly new Article, 44, which contains the substance of an

(1) Charter of the United Nations: Report to the President on the results of the San Francisco Conference by the Chairman of the United States Delegation, the Secretary of State, page 94.

amendment submitted at the Conference by the delegation of Canada and strongly supported by the other "middle powers". It gives realization on the level of international security arrangements to the cherished axiom of American history: "No taxation without representation." Once the Security Council has determined on the employment of armed forces, it must give to each state asked to contribute contingents a voice in the decisions concerning the employment of its own forces. For the purpose of such decisions, in other words, the voting membership of the Security Council may be increased by one—but by no more than one—for each decision.

Here is the way Article 44 will work: If four states not represented on the Security Council are to be asked to furnish armed forces to cope with an emergency, they may, if they desire, send representatives to sit temporarily with the Council; but each of these four *ad hoc* representatives would participate only in the decision which concerns the use of the armed forces of his own country. No similar right is given to states when the contribution involved is only the use of facilities and assistance they have agreed to provide, and an amendment to give such a right was rejected. The Conference felt that there is a substantial difference between sending men to fight and, for example, making an airfield available.

It is particularly important to notice that the membership of the Security Council remains unchanged for all decisions leading up to and including the decisions to impose military sanctions. Thus the operation of the security machinery will not be dangerously slowed by the new provision. Moreover, the provision will not affect the use of the contingents of the Great Powers, which will doubtless constitute the bulk of the forces used to carry out the Council's decisions. Even the process of consulting the states that are not members of the Council should not appreciably delay the effective functioning of their contingents.

Agreements with the Security Council

The third objective of the Canadian delegation was to try to secure a clarification of the provision in the Dumbarton Oaks Proposals on special military agreements. This provision contemplated that all Members of the Organization should conclude agreements to supply the Security Council with forces, facilities and assistance in order that the Security Council might impose military sanctions. These agreements were to be concluded "among" Members of the Organization; they were to be "negotiated as soon as possible" and each of them was to be "subject to approval by the Security Council and to ratification by the signatory states".

The Canadian delegation did not itself propose an amendment to this provision but supported the amendment proposed by Australia under which the agreements would not be concluded among Members but would be concluded "between the Security Council and Members or groups of Members" and under which a duty would be placed on the Security Council to initiate the negotiation of the agreements.

At the meeting of the committee on May 28 the Canadian representative seconded the Australian amendment. He said:

> This is a very important Article of the Charter. It is designed to give the Security Council the means of enforcing its decisions by military action if a dispute has proved incapable of settlement by peaceful methods or by the application of sanctions short of the use of armed force. It is also designed to make clear to any country tempted to violate the provisions of the Charter and threaten the peace of the world that the organized forces of all the Members of the Organization would be brought against it if the need arose. Its purpose, therefore, is both deterrent and operational...
>
> It is certainly in full accord with the central purpose of the Organization that an obligation should be imposed on all Members to do their share in maintaining or restoring peace. This paragraph lays down the procedure

whereby the obligation would be fulfilled. It is a complicated procedure and also in some respects an obscure procedure. The intention is sound —to prescribe the methods whereby every Member undertakes to make available to the Security Council the military forces, facilities and assistance which the Council may require in the event of a breach of the peace. As the paragraph is drafted, it would seem that each Member in concluding its special agreement or agreements would have to pursue the matter through four successive stages.

In the first place, the agreements are to be made by Members among themselves and not with the Security Council. Each Member would, therefore, have to discover with what other Members it ought to make its special agreement or agreements and secure the consent of these other Members to enter into negotiations. Secondly, the agreements would have to be negotiated in a form acceptable to all the parties. Thirdly, the agreements would have to be submitted to the Security Council for its approval. Presumably if the Security Council failed to approve, the whole process might have to be started again. Finally, the agreements would have to be ratified by the signatory states in accordance with their constitutional processes. If ratification was not approved by the legislature of any country, it would be necessary again to start from the beginning.

I am not aware of the reasons which have led to the inclusion of the words "between themselves" in the first sentence of this paragraph and it would appear that the process of completing the agreements might be considerably simplified if they were to be made with the Security Council either by individual states or by groups of states. The Australian amendment would eliminate two stages and leave only the necessary stages of negotiation and ratification. Its adoption would seem to lead to a more practicable scheme likely to result in a far more uniform and also stronger plan. There may, however, be strong reasons, as yet unrevealed, for the use of the terminology in the paragraph. The Canadian delegation would welcome an explanation from the Sponsoring Powers.

The Australian amendment, together with two amendments proposed by the French delegation, was accepted by the committee and the Article as finally incorporated in the Charter reads as follows:

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes. (Article 43.)

OTHER CHANGES MADE AT THE CONFERENCE

In addition to the changes discussed above, only three other important changes were made in the Dumbarton Oaks Proposals on enforcement action. The old first paragraph of the Dumbarton Oaks Proposals was eliminated as redundant. A new Article [Article 40] on provisional measures was inserted on the initiative of the four Sponsoring Powers.

"The Inherent Right of Individual or Collective Self-Defence"

Another new Article [Article 51] was also inserted. This declares that a Member of the Organization which is attacked by armed force has the right to defend itself, and other Members have the right to come to its defence. These rights, however, cease as soon as the Security Council takes "the measures necessary to maintain international peace and security".

This Article was inserted on the initiative of the American Republics. They contended that the Act of Chapultepec embodied the wholly desirable concept of the collective self-defence of the American Republics against aggression by any state, American or non-American; that Part II of this Act contemplated the conclusion of a permanent treaty integrating this concept of collective self-defence into the inter-American system; and that the Charter of the United Nations should not prevent this from being done.

Regional Arrangements
(Chapter VIII of the Charter)

DUMBARTON OAKS PROPOSALS

The Dumbarton Oaks Proposals on regional arrangements were brief. They stipulated that "nothing in the Charter should preclude the existence of regional arrangements or agencies" provided that they and their activities were "consistent with the Purposes and Principles of the Organization". The Security Council was instructed to encourage the settlement of "local disputes" through these arrangements or agencies "either on the initiative of the states concerned or by reference from the Security Council".

No instruction was given to the Security Council to use regional arrangements or agencies for enforcement action under its authority, but it could use them at its discretion. It was further provided that no enforcement action should be taken under regional arrangements or by regional agencies "without the authorization of the Security Council". This meant that any one of the five Great Powers could, by the exercise of its veto, prevent enforcement action under a regional arrangement or by a regional agency.

Finally, the Security Council was to be "kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security".

Three sorts of amendments to these proposals were submitted to the Conference. Australia, Belgium and Venezuela wanted to limit the right of a Great Power to veto regional enforcement action. Other delegations, chiefly those of the Latin American Republics and of the League of Arab States, wanted to increase the automony of regional arrangements. The purpose of the third group of amendments was to ensure that the Charter did not interfere with the operation of pacts of mutual assistance directed against enemy states.

AMENDMENTS APPROVED AT SAN FRANCISCO

Four amendments affecting the Dumbarton Oaks Proposals on regional arrangements were adopted at the Conference.

Two of them are not of great importance. One adds regional agencies or arrangements to the list of peaceful means for settling disputes set forth in Article 33. The other related amendment contains an undertaking by Members of the Organization who are parties to regional arrangements or agencies to try to solve their local disputes through these arrangements or agencies before referring them to the Security Council.

One, however, is of great importance. It has already been mentioned above in connection with enforcement action. This was the inclusion of a new Article [Article 51] on the "inherent right of individual or collective self-defence". This recognizes the rights of all Members of the Organization

to defend themselves and each other by individual action or by collective action. It means that the parties to regional arrangements or agencies, such as the inter-American system and the League of Arab States, can come to each other's defence without any prior authorization by the Security Council. Since this Article begins with the words, "Nothing in this Charter shall impair the inherent right of individual or collective self-defence", its provisions override those of Article 53 in the event of conflict between them. (Article 53 prohibits regional arrangements or agencies from taking enforcement action without the authorization of the Security Council.) The only limitation on the right of individual or collective self-defence set forth in Article 51 is that it ceases as soon as the Security Council takes the "measures necessary to maintain international peace and security."

This amendment completely alters the situation so far as enforcement action under regional arrangements and by regional agencies is concerned. Under the Dumbarton Oaks Proposals any one of the Great Powers would have been able to veto enforcement action taken as a result of regional arrangements or by regional agencies, whereas under Article 51 of the Charter any one of the five Great Powers can veto any action by the United Nations Organization if enforcement action is already being taken under a regional arrangement or by a regional agency.

The other important amendment which was adopted by the Conference affects the operation of mutual assistance pacts directed against enemy states. The Dumbarton Oaks Proposals had provided that "no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council". At San Francisco this was declared not to apply to measures against any enemy state provided for in the transitional security arrangements. (Article 107, see page 65.) Nor was it to apply "in regional arrangements directed against renewal of aggressive policy on the part of any such [enemy] state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state". (Article 53.)

Economic and Social Co-operation

(Chapters IX and X of the Charter)

CANADIAN AMENDMENTS

Among the amendments submitted by the Canadian delegation to the Conference was a complete revision of the important chapter in the Dumbarton Oaks Proposals on international economic and social co-operation. One of the main purposes of the proposed revision was to increase the authority and position of the Economic and Social Council without, however, attempting to extend its functions beyond the scope of studies, reports and recommendations. Another purpose was to clarify the character of the relationship to be established between the Organization and the various specialized intergovernmental agencies and by so doing to strengthen the position of the Economic and Social Council as the body charged with co-ordinating the activities of the agencies. The Canadian proposals were also an effort to clarify the language of the Dumbarton Oaks draft and to arrange its provisions in a more logical order.

Increased Authority for the Council

The following five proposals put forward by the Canadian delegation to strengthen the position of the Economic and Social Council were adopted:

(1) One of the purposes of the Organization should be to attain higher standards of living and economic and social progress and development. (Article 55.)

(2) The Members of the Organization should undertake to co-operate fully with the Organization and with each other in order to achieve the economic and social purposes of the Organization. (Article 56.)

(3) The Economic and Social Council should be authorized not only to make recommendations on matters falling within its competence, but also to make or initiate studies and reports on such matters. The Council should be authorized to address its recommendations to the General Assembly, to the Members of the Organization and to specialized intergovernmental agencies. Recommendations must be addressed to all Members or to those Members concerned with the particular subject matter of the recommendation. (Article 62.) It was not the intent of the committee that they should be addressed to any one single state.

(4) In order to lessen the danger that the recommendations of the General Assembly on economic, social and related matters should remain ineffective, the Council should be authorized to receive reports from the Members of the Organization on the steps they had taken to give effect to the recommendations of the General Assembly and to communicate its observations on these reports to the General Assembly. (Article 64.)

(5) The Council should be given explicit authority to perform services at the request of Members of the Organization and of related intergovernmental agencies, subject to the approval of the General Assembly. (Article 66.)

Composition of the Council

Under the original Dumbarton Oaks Proposals the functions of the Economic and Social Council were limited to economic and related social problems. In the light of these Proposals the Canadian delegation suggested that the General Assembly, in electing the eighteen members of the Economic and Social Council, should "have due regard to the necessity of arranging for the adequate representation of states of major economic importance". Early in the San Francisco Conference, however, the scope of the activities of the Council was extended beyond the strictly economic and social fields to include cultural and educational co-operation, public health and the promotion of respect for, and observance of, human rights and fundamental freedoms. This weakened the argument for the Canadian proposal and after it had been discussed in committee the Canadian delegation withdrew it. The discussion, however, demonstrated a general belief that if the Council were to discharge its duties effectively it would in fact be necessary to have the states of major economic importance continuously represented on it. This belief was reflected in the provision that retiring members of the Council should be eligible for immediate re-election. (Article 61.)

Relationship between the Organization and Specialized Intergovernmental Agencies

The following five proposals put forward by the Canadian delegation for the purpose of clarifying the relationship between the United Nations and specialized intergovernmental agencies were adopted:

(1) Only those specialized agencies which had "wide international responsibilities" should necessarily be brought into relationship with the United Nations. It was not thought possible to define precisely the meaning of the phrase "wide international responsibilities", but it was clear that international agencies established by bilateral agreement need not be brought into official relationship with the Organization. (Article 57.)

(2) One of the duties of the Organization should be to initiate negotiations among the states concerned for the creation of any specialized agency required for the accomplishment of the economic and social purposes of the Organization. The purpose of this Canadian proposal was to develop a practice under which the initiative for the creation of any new specialized agency will come from the Economic and Social Council. This Council will be receiving reports from the existing agencies and, from its examination of these reports as well as from the work done by its own staff, it will be in a strong position to determine whether any new work which comes up can best be carried on by itself, by an existing agency, or by the creation of a new agency. The proposal is designed to prevent the unnecessary multiplication of specialized agencies. (Article 59.)

(3) The Economic and Social Council should be empowered to co-ordinate the activities of the various intergovernmental agencies brought into relationship with the Organization through consultation with them and also through recommendations to them and to the General Assembly and the Members of the Organization. (Article 63.)

(4) The Economic and Social Council should be empowered to obtain reports from the specialized agencies on the steps they have taken to give effect to its own recommendations and to those of the General Assembly and to communicate its observations on these reports to the General Assembly. (Article 64.)

(5) In addition to the representation on the Economic and Social Council of the specialized agencies brought into relationship with the Organization which was provided for in the Dumbarton Oaks Proposals, the Economic and Social Council should make arrangements for its own representatives to participate in the deliberations of these agencies. (Article 70.)

OTHER AMENDMENTS

The following is a summary of the more important amendments which were proposed by other delegations and accepted by the committee:

(1) A Four-Power amendment stating one of the Purposes of the Organization as being the promotion of "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion" (Article 55) and a corresponding power given to the Economic and Social Council to "make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all." (Article 62.)

(2) A United States proposal which had previously been supported by many delegations, including particularly those of France, China and many Latin American countries, for the inclusion of the promotion of "international cultural and educational co-operation" as one of the Purposes of the Organization. (Article 55.)

(3) An Australian proposal authorizing the Economic and Social Council to "prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence" and to "call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence." (Article 62.)

(4) A French proposal authorizing the Economic and Social Council to furnish information to the Security Council directly rather than through

the Secretary-General as provided for in the Dumbarton Oaks Proposals. It was felt desirable to provide this direct link between the Economic and Social Council and the Security Council. (Article 65.)

(5) A United States proposal requiring the Economic and Social Council to set up a commission for the promotion of human rights. It is expected that this commission on human rights will work out an international bill of rights for submission to the Members of the Organization for their approval. (Article 68.)

(6) A proposal originating in the Ethiopian delegation to the effect that the Economic and Social Council should invite any Member of the Organization to participate, without vote, in its deliberations on matters of particular concern to that Member. (Article 69.)

(7) A Four-Power proposal authorizing the Economic and Social Council to "make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned." The Soviet delegation attached particular importance to this proposal. (Article 71.)

MAIN ISSUES OF POLITICAL SIGNIFICANCE

During the course of the discussions of the committee which drafted the two chapters on economic and social co-operation, a number of questions of general international significance were raised.

The International Labour Organization

The relationship of the International Labour Organization to the new Organization came up directly in the committee as a result of two amendments proposed by the United Kingdom delegation. The first of these was that the Charter should state that the new Organization was to pursue its Purposes in the field of economic and social co-operation "in association with the International Labour Office and other bodies concerned". The second was for the addition of a new paragraph stating that "in view of its tripartite constitution the International Labour Office should be brought into special relation with the Organization and should be an important instrument through which should be pursued the object of securing for all improved labour standards, economic advancement and social security".

These United Kingdom amendments were very vigorously combatted by the Soviet delegation, which pointed out that it was not itself a member of the I.L.O., that the I.L.O. constitution was in process of revision, that it was impossible to decide now whether the I.L.O. would or would not be the representative labour body which should be brought into official relationship with the Organization, and that in any case it was undesirable to mention any single specialized agency in the Charter.

A long debate took place on this subject. It was of a somewhat unsatisfactory character since the first United Kingdom amendment appeared to give the I.L.O. a status of equality with the Organization and therefore made it difficult for the delegations which supported the I.L.O. but did not feel that it should have such a status to support the United Kingdom proposal. Moreover, certain delegations, though supporting the I.L.O., agreed with the Soviet contention that it was undesirable to mention any particular specialized agencies in the Charter before agreements governing their relationship with the Organization had been successfully negotiated. Had a vote been taken, therefore, it would have been

wrongly interpreted as a division between those who were in favour of and those who were opposed to the I.L.O. In view of this, the United Kingdom decided not to press their amendments but to leave them in abeyance for the time being. In the course of the debate many speeches were made in favour of the I.L.O., and the Canadian delegation took occasion to express its support of that institution without, however, supporting the United Kingdom amendments.

At a late stage in the Conference the United Kingdom delegation withdrew their amendments on the understanding that the report of the rapporteur of the committee would contain a statement to the effect that there had been a wide measure of agreement that the I.L.O. should be brought into relationship with the Organization and that the committee welcomed the statement of the chairman of the Governing Body of the I.L.O. to the effect that the I.L.O. realized that it would be necessary to alter its constitution in order to provide the appropriate links with the United Nations Organization. This declaration by the United Kingdom representative was put to a vote and was approved by the committee, with the Soviet delegation and certain others abstaining. Immediately afterwards the Soviet delegation stated that it reserved its position on this question.

The World Trade Union Congress

A meeting of the World Trade Union Congress had been arranged to take place in Oakland, across the bay from San Francisco, at the same time as the San Francisco Conference. When the question of the participation in the San Francisco Conference of intergovernmental agencies, and particularly the I.L.O., was raised, the Soviet delegation linked this with the participation of the World Trade Union Congress. After a somewhat heated debate in the committee on economic and social co-operation, the committee decided by a large majority to invite the World Trade Union Congress to have representatives present at its meetings. This decision was, however, challenged in the Steering Committee on the ground that the terms of invitation to the Conference were confined to Governments and intergovernmental agencies, and if the door were opened to non-governmental agencies, it would be impossible to draw the line anywhere. The decision of the technical committee was accordingly reversed.

Full Employment (Article 55)

In the drafting committee it was proposed by the Mexican delegation that the statement of Purposes of the Organization regarding the promotion of "higher standards of living, and conditions of economic and social progress and development" should also contain a reference to full employment. The drafting committee decided by a narrow margin that "full employment" was a technical and somewhat ambiguous phrase, and that it would be preferable to refer to "high and stable levels of employment". The report of the drafting committee to the main committee contained both versions and when the matter was discussed in the main committee, strong support was given to the words "full employment". The Canadian delegation expressed its preference for language such as "the highest possible level of stable employment". The final unanimous decision of the committee was that the phrase "full employment" should be used.

The Pledge (Article 56)

The question of the pledge was one of the most hotly debated and difficult issues of the Conference. As noted above, the amendment submitted by the Canadian delegation incorporated after the statement of Purposes an undertaking on the part of member states to "co-operate with the Organization through separate and through joint action to achieve these Purposes". The Australian delegation had a form of undertaking which went very much further than the Canadian. It was in part as follows:

> All Members of the United Nations pledge themselves to take action, both national and international, for the purpose of securing for all peoples,

including their own, improved labour standards, economic advancement, social security and employment for all who seek it . . . All Members of the United Nations undertake to report annually to the General Assembly upon the action they have taken in fulfilment of this pledge.

The question was referred three times from drafting committee to main committee and back to drafting committee, and a very large number of versions of the undertaking were considered. The most vigorous contestants were the Australian delegation on the one hand and the United States delegation on the other. In the end the following text was unanimously adopted by the committee:

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

DECLARATIONS FOR THE RECORD

Declarations were made by several delegations on various subjects. According to the procedure decided by the Steering Committee, no resolutions of a general character were to be put to a vote. Following the formal declarations, however, it was open to delegations to support or oppose any particular declaration, with the understanding that the rapporteur, in his report, would note the declaration made and the degree of support which it received.

Cultural Co-operation

The French delegation made a declaration on cultural co-operation in which they stressed the necessity of facilitating international co-operation in the field of letters, the arts and research, and recommended that "the Member Governments should convene within the next few months a general conference to draw up the statute of an international organization on cultural co-operation. All Governments Members of the Organization should be invited to take part in this conference in which the existing international organizations specializing in the study of the same problems should participate in an advisory capacity". This declaration received a substantial measure of support, particularly from the delegations of the Latin American Republics.

Health Co-operation

The delegations of Brazil and China made a joint declaration regarding international health co-operation. They recommended that a general conference be convened within the next few months for the purpose of establishing an international health organization to be brought into relationship with the Economic and Social Council. This declaration, too, received a wide measure of support. In supporting it, the Canadian representative on the committee said:

....We feel that there are few fields in which there is a more urgent need for effective international co-operation than that of public health.

It has been a source of gratification to the Canadian Government that, even though it has not been possible during the war years to maintain the work of the health organization of the League on the same comparative scale as the work of the economic and financial organization and that connected with the control of the drug traffic, nevertheless this work has been continued, albeit on a restricted scale. ....

The Canadian delegation believes that there is a pressing need for the immediate review of the existing institutions and for the establishment of effective and co-ordinated international machinery in the field of public health. We feel that the Brazilian and Chinese delegations have performed a great service in bringing forward their proposal at this time.

Reconstruction

The Greek delegation made a declaration regarding reconstruction. They stated that they considered the reconstruction of countries devastated by the war to be one of the principal aims of the future world organization, but that it was imperative that a start should be made at once before the world organization began to function. They therefore recommended that the Governments of the United Nations concert action as quickly as possible with a view to organizing effective international action in this field. A large number of delegations, including the Canadian delegation, supported the Greek proposal.

Dangerous Drugs

The United States delegation made a formal statement on the control of dangerous drugs. The Canadian delegation had also, in the drafting committee of the committee on economic and social co-operation, taken the initiative in arranging for a statement by the drafting committee to the effect that the reference to social and health problems in the Charter was to be interpreted broadly enough to include international activity connected with the suppression of the traffic in and abuse of dangerous drugs. The United States delegation wished to go on record as hoping that the Organization would be entrusted with the supervision over existing or future international agreements for the suppression of the illicit traffic in and the abuse of opium and other dangerous drugs; and that there should be established an advisory body to advise the Economic and Social Council directly on these matters; and that the existing agencies be regarded as autonomous agencies to be brought into relationship with the Economic and Social Council. The Chinese, Indian and Canadian delegations supported this proposal, the Canadian delegation in these words:

> The Canadian delegation wishes to support this declaration of the United States delegation. It has been our privilege to be associated with the important work carried out by the League of Nations for the suppression of illicit traffic in dangerous drugs. We attach great importance to the continuance of international control in this field and we think it proper that the Conference should go specifically on record in favour of the establishment of effective international machinery for this purpose.

Migration

The Panamanian delegation made a declaration advocating that the Economic and Social Council study the problem of migration and that the Governments of the United Nations concert action as soon as possible to consider effective international action in this field. This declaration was supported by several countries, notably those of Latin America.

Status of Women

The Brazilian delegation made a declaration drawing attention to the necessity of improving the status of women in different countries and recommending that the Economic and Social Council should set up a special commission of women to study conditions and prepare reports on the political, civil and economic status and opportunity of women, with special reference to discrimination and limitations placed upon them on account of their sex. This declaration received the widest measure of support of any declaration made in the committee. Thirty-five countries, including Canada, associated themselves with the Brazilian declaration.

Raw Materials

The French delegation which, to begin with, had proposed an amendment directing the Economic and Social Council to set up a specialized agency to

deal with the question of access on equal terms to the raw materials of the world, withdrew this amendment, being satisfied to have the rapporteur of the committee note in his report that their declaration had received support from many other delegations.

Dependent Territories

(Chapters XI, XII and XIII of the Charter)

At San Francisco there was evolved an agreement whereby the great majority of colonial powers undertook four obligations: first, to recognize that the interests of the inhabitants of all non-self-governing territories are paramount; second, to promote the well-being of the inhabitants of these territories by methods specified in a comprehensive schedule; third, to see that dependencies are so administered as to contribute toward international peace and security; and fourth, to set up a United Nations trusteeship system, differing in many respects from the mandate system of the League of Nations, to be applied to certain selected territories.

When the Conference opened, it had before it no draft proposals on the subject of trusteeship. At Dumbarton Oaks the question had not been discussed. At Yalta it was referred to a Five-Power meeting to be held prior to the San Francisco Conference. This meeting, however, did not take place, and the Five-Power talks had to be held in San Francisco concurrently with the Conference itself.

The delegations of the United States and the United Kingdom submitted to the Conference separate sets of proposals, the result of careful study by their respective Governments. The delegations of France, China and the Soviet Union each issued proposals based mainly on those of the United States. The United States delegate on the trusteeship committee then presented for the use of the committee a working paper, to which no Government was committed, covering what seemed at the time to be the maximum area of foreseeable agreement among the Five Powers. Discussions of this paper in the committee had to be interrupted frequently to enable the Five Powers to come to actual agreement, or to facilitate the settlement of differences which arose in the committee itself.

The committee had before it, also, two sets of proposals submitted by the Australian delegation. The Canadian delegation, because of the lack of any direct responsibility on the part of the Canadian Government for the administration of colonial dependencies, took no active part in the discussions, but followed them with close attention.

The declaration regarding the responsibilities of colonial powers toward the people of all dependent territories was embodied in Chapter XI of the Charter. The Committee gave its attention first, however, to the subjects dealt with in Chapter XII and XIII—the creation of the United Nations trusteeship system, and of the Trusteeship Council which is a principal organ of the United Nations.

International Trusteeship System

(Chapter XII)

Scope

At the Crimea Conference it had been stipulated that only three categories of territory should be placed under trusteeship: first, those under League of Nations mandate; second, those detached from the enemy during the Second World War; and third, those placed voluntarily under trusteeship by the administering powers. There was to be no discussion at San Francisco of the actual territories involved. The selection of these would be a matter for subsequent decision.

At the San Francisco Conference it was decided that the trusteeship system should apply to such territories in the three Yalta categories as might be placed under it by subsequent individual agreements. (Articles 75 and 77.) The Australian delegation, feeling that some element of compulsion would be preferable, suggested that the General Assembly should be empowered to name trust territories after considering the recommendations in this regard of a conference or conferences of colonial powers. The committee, however, rejected proposals involving the element of compulsion, on the ground that these would entail legislating beyond the competence of the conference.

There was considerable discussion of territories to which the trusteeship system should not apply. A clause was inserted in the Charter specifying that it should not include territories which have become Members of the United Nations (Article 78). The Ethiopian, Guatemalan and Argentine delegations each formulated reservations, moreover, against extension of the trusteeship system to certain regions in which their Governments are interested, and the French delegation reserved its full rights under the domestic jurisdiction clause (Article 2:7) in a formal statement regarding chapters XI, XII and XIII as a whole.

Objectives

Four basic objectives of the trusteeship system are set forth in the Charter (Article 76).

The first is to further international peace and security. Nothing of this sort was suggested in the mandates article of the League Covenant which, on the contrary, deprived mandatory powers of the right to build fortifications or military and naval bases, or to give military training to the inhabitants of mandated territories for other than police purposes. Under the new system it became the duty of the administering authority to take adequate defence measures.

The second objective was to promote the political, economic, social and educational advancement of the inhabitants of the trust territories. What was meant by the term "political advancement" was a question debated at some length both in committee and in the Five-Power meetings. The Chinese and Soviet delegations wished political independence to be mentioned specifically in the Charter among the goals which inhabitants of trust territories would be helped to attain. The United Kingdom delegate, on the contrary, thought that it would be enough to speak of "the development of self-government in forms appropriate to the varying circumstances of each territory". What dependent peoples wanted, he said, was an increased measure of self-government, together with the personal liberty and justice which might be denied them if outside protection were to be withdrawn. Political independence would come, if at all, through natural processes.

The issue was settled to the satisfaction of the committee when the Five Powers agreed to offer self-government or independence as alternative goals, depending on the circumstances of the territory, the wishes of its inhabitants and the terms of the trusteeship agreement concerned.

To bring the statement of objectives of the trusteeship system more clearly into line with the Atlantic Charter and the Principles and Purposes of the United Nations, a third sub-paragraph was adopted for inclusion in Article 76 as follows:

> to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion, and to encourage recognition of the interdependence of the peoples of the world.

The fourth and last objective named was "to ensure equal treatment in social, economic and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice". This was not to prejudice, however, the attainment of the objectives listed above, nor was it to affect the status of any mandated territory before the latter actually came under the new trusteeship system.

Between the two wars equal opportunities for the trade and commerce of League members were guaranteed only in the case of territories under A and B mandates. The open door principle did not necessarily apply in the more backward territories under C mandates, these being administered in most respects as integral portions of the territory of the mandatory powers themselves. In the Charter, by contrast, the principle of non-discrimination is extended for the first time to all trust territories equally, regardless of the stage of their development.

Security

The United States delegation brought to the Conference a proposal that in any trust territory a strategic area or areas might be designated, to include either part or all of the territory concerned. Strategic areas would come under the purview of the Security Council, while the administration of other areas would be supervised by a Trusteeship Council reporting to the General Assembly.

The United Kingdom delegation feared that this arrangement might remove from the scope of the trusteeship system a considerable population and many of the matters for which the system had been devised. In place of a geographical distinction between strategic and other areas, the United Kingdom draft proposed two systems of reporting. All reports on security matters should go to the Security Council, while reports on other aspects of administration should go to a permanent commission responsible to the Economic and Social Council.

The United States proposal for geographical differentiation between strategic and other areas was finally adopted by the committee. (Articles 82 and 83.) The plan was modified, however, in two ways. A Chinese suggestion was adopted that basic objectives of the trusteeship system should apply to the people of strategic areas, although reports from strategic areas would not be required on political, economic, social and educational progress. As the result of an Egyptian suggestion it will be obligatory, not optional, for the Security Council to make use of the Trusteeship Council to perform the non-security functions of the Organization in strategic areas within certain limitations. In line with a United Kingdom proposal, trustee states are empowered to make use of volunteer forces, facilities and assistance from the territories in carrying out their obligations to the Security Council, as well as for local defence and the maintenance of internal law and order. (Article 84.)

General Provisions

Terms under which each trust territory will be administered are to be laid down in individual trusteeship agreements. These are to be made by the states directly concerned and approved by the Security Council, so far as they relate to strategic areas, and by the General Assembly in all other cases. Agreements may be amended—a provision which gives the trusteeship system more flexibility than the mandate system possessed. The choice of trustee, which the committee recognized must depend on a number of factors, is to be indicated in each agreement. The committee also discussed the termination of trusteeships through attainment of independence by the trust territory. It left this matter to be dealt with as might be appropriate in individual agreements. (Articles 79, 81, 83 and 85.)

The Egyptian delegate asked whether a trust territory could be transferred if the administering authority violated the basic trusteeship agreement, or if it withdrew or was expelled from the Organization. In a joint reply by the United States and United Kingdom delegates, the chief point made was that each such case must be dealt with on its merits by the General Assembly and the Security Council, to whose attention aggressions, actual or intended, or any dangerous situation, could be brought by any Member.

In view of this statement, no clause was included in the Charter itself on violations of trusteeship agreements. An Article was included, however, to guard against violation of the terms of existing mandates during the period which must elapse between the coming into force of the Charter and the conclusion of new trusteeship agreements (Article 80). The Article provides in effect that, until the new trusteeship agreements have been concluded and except as may be laid down in these agreements between the states directly concerned, "nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties".

The delegations of the Arab states wished in particular to safeguard special rights guaranteed to territories under Class A mandate in the League Covenant (Article 22, paragraph 4). They asked that the Charter should protect these rights not only during the transition period to which Article 80 applies but in the new trusteeship agreements as well. A representative of the United States delegation gave assurances that Article 80 would be interpreted to cover the paragraph in question. A rider was attached to the article to prevent any state from invoking it to prolong the transition period indefinitely.

Trusteeship Council

(Chapter XIII)

As already stated, the United Kingdom delegation proposed that the body chiefly concerned with the supervision of trust territories should be a permanent commission responsible to the Economic and Social Council. It was the United States proposal, however, which was adopted. The result is that the Trusteeship Council is subordinate to the General Assembly, in which all Members are represented. It has the same rules in voting as the Economic and Social Council, enjoys the same latitude in regard to general procedure, and can avail itself of the assistance of the Economic and Social Council and of other specialized agencies whenever appropriate. Like the League Mandates Commission, it receives and considers reports of the trustee powers and accepts petitions and examines them in consultation with the administering authority. Unlike the League Council and the Mandates Commission, however, the General Assembly and the Trusteeship Council are permitted to arrange for periodic visits to the trust territories at times agreed upon with the administering authorities—a provision based on a proposal made by the delegation of the Soviet Union.

The Trusteeship Council differs fundamentally in its structure from the Permanent Mandates Commission of the League. The latter was an independent body composed of experts drawn from various Member states, who held no office placing them in a position of dependence on their respective Governments. The views they expressed were their own. Seats in the Trusteeship Council, on the contrary, are to be held by Members of the Organization, that is to say by Governments. One-half will be trustee states, and these will hold permanent seats. A smaller number—perhaps two—will be any permanent members of the Security Council which do not administer trust territories. These also will hold

permanent seats. The remainder will be members elected for three-year periods by the General Assembly. The number of non-trustee powers on the Council is to equal the number of trustee powers, but less than half of the members will be elected while more than half will hold permanent seats.

The Canadian delegation opposed the principle that the permanent members of the Security Council, whether or not they were trustee powers, should be permanent members of the Trusteeship Council. The proposal carried, however, by an overwhelming majority. The Chinese delegation wished to secure the right of temporary attendance at meetings of the Trusteeship Council for representatives of inhabitants of trust territories when matters affecting their interests were under discussion, but this proposal was not put to a vote.

Declaration Regarding Non-Self-Governing Territories

(Chapter XI)

The United Kingdom and the Australian delegations came to San Francisco with two separate proposals for a United Nations declaration giving to colonial dependencies in general certain assurances not offered them under the League Covenant. It was not until the closing days of the Conference, however, that agreement could be reached on the precise form this declaration should take.

In the declaration all Members of the United Nations having dependencies under their control recognize that the interests of the inhabitants are paramount. The well-being of the inhabitants is to be promoted to the utmost, within the system of international peace and security established by the Charter (Article 73). Five special obligations or sets of obligations are assumed:

The first of these includes not only the promotion of political, economic, social and educational advancement, but also just treatment of the inhabitants, due respect for their culture, and their protection from abuses. The latter phrase is interpreted to cover the protection of arable land, the abolition of penal sanctions on contract labour, and the elimination of racial discrimination.

The second obligation is a political one, "to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions", according to their particular circumstances and varying stages of advancement. This takes the place of the simpler formula "self-government or independence" used in describing the objectives of the trusteeship system proper. The phrase was agreed to only after prolonged discussions in meetings of the Five Powers.

The third obligation undertaken by colonial powers was that of furthering international peace and security—a principle already discussed. The fourth and fifth series of obligations were written into the Charter at the request of the Australian delegation. Under these clauses Members of the Organization undertake:

> To promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
>
> To transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

The declaration closes with an undertaking that Members of the United Nations will base their policy in respect of dependent territories, no less than in

respect of their metropolitan areas, on the general principle of good-neighbourliness, taking due account of the interests and well-being of the rest of the world in social, economic and commercial matters (Article 74). This provision, like Article 76(*d*) which parallels it in the case of trust territories, was agreed to first in meetings of the Five Powers and was later accepted by the committee without discussion.

Chapter XI as a whole represents a more extensive codification of principles to be applied to dependent territories than has ever been attempted before. It is hoped that there may result from it a healthy competition between colonial powers for the achievement of better conditions for the people under their care. It should at least bring to a convenient centre an unprecedented flow of information which may be used to suggest lines along which improved colonial policies may be developed.

The International Court of Justice

(Chapter XIV of the Charter and Statute)

A committee of jurists of the United Nations met in Washington from April 9 to April 20, 1945, to prepare a draft of a Statute of an international court of justice to be submitted to the San Francisco Conference. Canada was represented by Mr. J. E. Read, K.C., Legal Adviser to the Department of External Affairs. The Canadian delegation included the Hon. Philippe Brais, K.C., President of the Canadian Bar Association; the Hon. Wendell B. Farris, Chief Justice of British Columbia and Chairman of the Canadian Bar Association Committee; Mr. Warwick F. Chipman, Canadian Ambassador to Chile; Mr. Roger Chaput of the Department of External Affairs. The report of the Washington jurists formed the basis of discussions in San Francisco by a technical committee of the Conference. The technical committee prepared a draft text of the chapter of the Charter (Chapter XIV) dealing with the Court, together with a revised Court Statute to be annexed to the Charter. The texts prepared by the technical committee, like those prepared by the other technical committees, were considered by the Co-ordination Committee, which made a considerable number of drafting changes in order that the terminology of the Statute should conform to the terminology of the Charter of which it forms an integral part.

THE CHARTER

Should the Old Court be Maintained or a New Court Established?

The first question to be decided was whether the Permanent Court of International Justice established in 1920 under the Covenant of the League of Nations should become the judicial organ of the United Nations or whether a new Court should be established for that purpose. The arguments for maintaining the Court's identity were that it had functioned well, that its contribution to the international judicial process had been considerable, that its traditions should therefore be maintained. On the other hand, it was pointed out that the integration of the Permanent Court within the United Nations Organization would in practice give rise to very serious difficulties, from both a political and a juridical point of view, having in mind the fact that modifications to the Permanent Court Statute would necessitate the concurrence of all parties to it, many of which were not represented in San Francisco, and that a large number of states represented at San Francisco were not parties to the 1920 Statute. Since it was not open to all these states to accede to the Statute, some of them could have no part in the negotiations for its modification. While it was agreed that the creation of a new Court also gave rise to serious difficulties, it was thought that these would on the whole be easier to deal with. Moreover, it was considered that the creation of a new Court would greatly facilitate the

adherence of those states, some of which were of great importance, which had never become parties to the Permanent Court. For these reasons it was decided that a new Court should be established.

The principle of the continuity of legal traditions was, however, recognized in Article 92, which reads as follows:

> The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

The Canadian delegation, while agreeing with this decision, voiced the regrets of a substantial number of states which would have preferred the continuance of the old Court as the best means of preserving the experience gathered from its achievements.

Enforcement of the Court's Judgments

A certain number of delegations contended that the execution of the Court's decisions was essential to the maintenance of law and order and that, should a state fail to comply with a decision, the other party to the dispute should have the right to apply to the Security Council, which should then take whatever action was necessary to force compliance. The main counter-argument was that the Security Council already had sufficient power under other Articles of the Charter to deal with disputes or situations arising out of non-compliance with the Court's judgments.

The final result was a compromise. Each Member of the Organization formally undertakes to comply with the Court's decisions in any case to which it is a party; if a state fails to honour this undertaking, the other party to the case may have recourse to the Security Council. The Security Council may, but is not obliged to, make recommendations or decide upon measures to be taken to give effect to the judgment. (Article 94.)

Advisory Opinions

The committee unanimously agreed that the new Court should have power to give advisory opinions on any legal question. The advisory procedure had proved extremely useful between the two wars. Actually, 28 out of the 65 cases which had come before the Court during that period were advisory matters and the continuance of the advisory jurisdiction of the International Court was heartily supported. However, the question of who should be authorized to request advisory opinions gave rise to an extensive debate. Under the old system, the only organs authorized to ask for advisory opinions were the Assembly and the Council of the League of Nations; consequently, each time an international organization such as the International Labour Office wanted to secure an advisory opinion from the Court, it had first to secure authority from either the Council or the Assembly. This procedure had serious disadvantages, among which was the narrowing in practice of the advisory jurisdiction of the Court. Despite numerous efforts on the part of Canada and certain other states, the technical committee at San Francisco expressed itself in favour of the old system. This decision, however, was reversed by another technical committee to which the question was referred. This committee, while adhering to the principle that only the General Assembly and the Security Council should be empowered to request advisory opinions, ruled that other organs of the United Nations Organization and specialized agencies brought into relationship with it should have direct access to the advisory jurisdiction of the Court, provided they receive a general authorization to that effect from the General Assembly. (Article 96.)

The view of both the Washington committee and the San Francisco committee was that the functioning of the Permanent Court of International Justice had given satisfactory results, and that its features should therefore be retained in the greatest possible measure and no change effected, except where past experience had revealed the necessity. The Canadian representatives concurred in this general view.

Organization of the Court

The new Court like the old Court consists of fifteen judges, no two of whom may be nationals of the same state. (Article 3.) (1) The system in force between the two wars, whereby a state which is party to a dispute is entitled to have one of its nationals sitting on the Court, was maintained. (Article 31.) The quorum of the Court consists of nine judges. (Article 25.) The Court, however, is empowered to form any number of chambers composed of three or more judges for dealing with particular categories of cases such as labour or transit and communications. (Article 26.) Moreover, the Court is directed to form annually a chamber composed of five judges for the purpose of determining cases by summary procedure. (Article 29.) While specific authorization is given to the Court to lay down its rules of procedure (Article 30), a certain number of rules of procedure are inserted in the Statute itself (Chapter III). One of these is the retention of English and French as the official languages of the Court. (Article 39.) The international Court shall continue to sit at The Hague. This, however, shall not prevent the Court from sitting elsewhere whenever it considers it desirable. (Article 22.) These provisions, taken in great part from the Statute of the old Court, were adopted by unanimous consent.

Nomination and Election of Judges

Under the system used for the election of judges of the old Court, candidates were nominated by national groups in the Permanent Court of Arbitration established in 1899. Candidates of states such as Canada which were not members of the Court of Arbitration were chosen by national groups appointed for this purpose by their Governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration. Certain delegations at Washington and San Francisco advocated the adoption of a new system whereby candidates would be nominated directly by Governments, each Government nominating one candidate who would be one of its nationals. The main arguments advanced against this were that nomination by national groups served as a check against direct political influence and that the right of national groups to nominate four candidates, not more than two of whom could be of their own nationality, enabled each state to contribute to the nomination of distinguished international jurists of other states. In the light of these considerations, the Conference voted for the maintenance of the old system. (Articles 4-7.)

There was an extensive debate on how the judges should be elected. A great number of delegations favoured the maintenance of the system in use between the two wars whereby judges were elected by the two main organs of the international organization, the Council and the Assembly. Other delegations contended that judges should be elected by the General Assembly alone, since this method was more democratic in that it eliminated the double votes of states represented both in the General Assembly and the Security Council. The old system was maintained, however, on the grounds that no difficulty had been encountered in its application during the last twenty-five years and that it greatly facilitated the election of the best candidates irrespective of their

(1) All references in this section are to Articles in the Statute of the International Court of Justice.

nationality. (Articles 8-10.) The Canadian delegation, in expressing its concurrence with this decision, said that it was desirable that the election of judges should not be subject to the veto of any state and proposed that a specific provision to this effect be inserted in the Statute in order to remove any doubts. The committee unanimously agreed with this proposal and provided for the insertion of a clause whereby any vote of the Security Council in connection with the election of judges should be taken "without any distinction between [its] permanent and non-permanent members". (Article 10.)

Parties before the Court

Access to the old Court was limited to states and, despite numerous suggestions to the contrary made between the two wars, the proposal that this rule be maintained for the new Court was unanimously adopted. (Article 34.) The suggestion was made that the Court should be empowered to render judicial decisions on jurisdictional conflicts between intergovernmental organizations dependent upon the United Nations, but this suggestion was promptly rejected, the general opinion being that these difficulties could easily be dealt with by making use of the advisory jurisdiction of the Court. By unanimous consent, however, provisions were inserted to enable international organizations to secure information whenever the construction of their constitutional instrument is being considered by the Court and, generally speaking, to submit, either on their own initiative or on request, information relevant to cases before the Court. (Article 34, paragraphs 2 and 3.)

It was unanimously decided that the Court should be open to all states which are parties to its Statute, and to other states on conditions to be laid down by the Security Council. (Article 35.) This rule is supplemented by a provision of the Charter that all Members of the United Nations are parties to the Statute.

Compulsory Jurisdiction

So far as the Statute is concerned, the most important question to be decided was whether states should bind themselves to submit their disputes to the international Court by mere adherence to its Statute or whether the Court's jurisdiction should become compulsory only as a result of their signing a special declaration to that effect in accordance with the terms of what is commonly referred to as the "optional clause".

The majority of delegations expressed the opinion that the system of compulsory jurisdiction by mere signature of the Statute had been proposed when the Permanent Court of International Justice was established in 1920; that, while it was not then accepted by the community of states, forty-seven states had signed the optional clause between the two wars; and that the time had now come for the formal recognition by the community of states of the principle of compulsory jurisdiction.

The argument against this was that some of the most important Members of the Conference had never become members of the old Court, that the primary objective recognized by all was the adherence of these states to the future international Court and that the adoption of compulsory jurisdiction, which these states were not yet prepared to accept, might very easily bring about a refusal on their part to become parties to the Statute. Since the great majority of states had adhered to the optional clause in the past, the only difference in practice between the two systems proposed was one of method and the immediate advantage secured by adopting compulsory jurisdiction was not worth running the risk that some of the more important states on which rested the responsibility for maintaining peace might refuse to support the principal judicial organ of the United Nations.

For these reasons, the majority of delegations which favoured compulsory jurisdiction, including Canada, decided to give way to the minority and expressed themselves in favour of the maintenance of the optional clause. (Article 36.) Simultaneously, however, great steps were made by the Conference towards compulsory jurisdiction.

In the first place, it was provided that declarations whereby states accepted the jurisdiction of the Permanent Court between the two wars, which were still in force at the time of signature of the United Nations Charter, would be considered as valid and applying to the new Court. Seventeen states, including Canada, will thus undertake, by ratifying the Charter, to submit their disputes to the Court. The Conference also formally recommended to other states that they make declarations as soon as possible recognizing the compulsory jurisdiction of the Court.

In the second place, while it was unanimously agreed that in order to safeguard the prestige of the Court compulsory jurisdiction should continue to be limited to legal disputes, that is to say, disputes which can be settled by the application of rules of law, the Conference agreed, on the initiative of the Canadian delegation, that compulsory jurisdiction should apply to all classes of dispute which are normally considered as legal and not merely to one or the other of these classes as was provided for in the old Statute.

It had been customary for states when accepting the jurisdiction of the Permanent Court to make reservations and it was agreed that they should be allowed to follow the same practice when accepting the jurisdiction of the new Court, since reservations made in the past did not limit in any substantial way the jurisdiction of the Court.

When Canada, on September 20, 1929, adhered to the optional clause of the Permanent Court, it expressly reserved from the jurisdiction of the Court disputes for which some other method of peaceful settlement was provided; disputes with any member of the British Commonwealth; and disputes the subject of which fell within the domestic jurisdiction of Canada. On December 7, 1939, Canada also excepted from the jurisdiction of the Court "disputes arising out of events occurring during the present war". Thus, while Canada will automatically agree to submit its disputes to the international Court at the time it ratifies the Charter, its acceptance of the Court's jurisdiction will be subject to the reservations made in 1929 and 1939.

Amendments to the Statute

No provision concerning amendments existed in the Statute of the old Court and, in the light of the experience of the past, the Washington committee of jurists strongly urged that such a provision be inserted in the Statute of the new Court. The Conference unanimously agreed with this suggestion and decided that, since the Statute of the new Court formed part of the Charter, it should be amended by the same procedure as the Charter. A new provision embodying this principle was consequently inserted. The incidental question whether or not parties to the Statute which are not parties to the Charter should participate in decisions concerning amendments was debated. A compromise solution was finally adopted whereby the General Assembly upon the recommendation of the Security Council will decide when amendments are being considered to what extent, if any, states not Members of the Organization should participate in the decisions taken. (Article 69.) A second additional Article was inserted which empowers the Court itself to propose amendments to its Statute. (Article 70.)

The Secretariat

(Chapter XV of the Charter)

The United Nations can succeed only if it is served by a truly international civil service whose members are responsible not to the Governments of the states of which they are citizens, but to the Organization itself. International

civil servants must possess the highest possible standards of efficiency, competence and integrity. The way in which the civil service is appointed, the way in which promotions are made and the other conditions of service must be such as to make this possible.

The Dumbarton Oaks Proposals on the Secretariat appeared to the Canadian delegation to be insufficient. It therefore proposed that three new provisions be added. The substance of two of them was, after discussion, incorporated in the Charter as Articles 100 and 101 in the chapter on the Secretariat. The substance of the third was incorporated as the third paragraph of Article 105 of the chapter on miscellaneous provisions and is discussed below. (See page 62.)

THE SECRETARY-GENERAL

The Dumbarton Oaks Proposals provided for the election of the Secretary-General by the General Assembly upon the recommendation of the Security Council. This meant that each Great Power had a veto over the nomination of the Secretary-General. Of the various amendments put forward to limit the extent of this veto, the Canadian delegation supported the one which provided that the Security Council should make its recommendation by a vote of any seven of its members. This proposal was accepted by the committee on the structure and procedures of the General Assembly. This committee and the committee on the Secretariat also accepted an amendment proposed by the Sponsoring Powers that the Secretary-General should be elected for a three-year term and be eligible for re-election. The Canadian delegation opposed this proposal on the ground that it gave little opportunity for long-range planning by the chief administrative officer of the United Nations and seemed likely to provide an unnecessarily large number of occasions for possible political rivalry over the appointment of an officer who should so far as possible be dissociated from the idea of national representation.

It was afterwards decided by the Conference at the request of the Great Powers that the consent of all the five permanent members of the Security Council should be required for the nomination of the Secretary-General. In the light of this decision the Conference committee on the Secretariat rescinded its decision that elections to the office of Secretary-General should be held every three years. There is thus no reference in the Charter to his tenure of office. Since both the consent of the Security Council and the General Assembly will be necessary for his appointment, these two bodies will have to come to agreement on the length of his tenure.

The Dumbarton Oaks Proposals provided that the Secretary-General should have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security.

Venezuela proposed an amendment under which the Secretary-General could bring these matters to the attention of the General Assembly as well as the Security Council. This was opposed in sub-committee on the ground that it contravened the essential principle of the Organization, which was a division of powers between the Assembly and the Security Council. The Canadian representative pointed out that it was difficult to reconcile this objection with the fact that any member state could, under another provision of the Charter, bring to the attention of either the General Assembly or the Security Council any dispute or any situation which might lead to international friction or give rise to a dispute, and the Canadian representative voted in favour of the Venezuelan amendment which was, however, rejected by a vote of 18 to 11.

Uruguay proposed an amendment authorizing the Secretary-General to bring to the attention of the Security Council any matter which in his opinion might violate the Principles of the Charter. This was rejected by a vote of 16 to 13, the Canadian representative voting against the Uruguayan proposal.

DEPUTY SECRETARIES-GENERAL

A Four-Power amendment to the Dumbarton Oaks Proposals provided for the election of four Deputy Secretaries-General by the same method as the Secretary-General. This precipitated one of the longest debates of the Conference and was finally defeated.

The view of the Canadian delegation was that the Four-Power proposal was inconsistent with the provision in the Dumbarton Oaks Proposals that the Secretary-General should be the chief administrative officer of the Organization. It would be extremely difficult, if not impossible, for him to carry out this responsibility if his principal assistants were elected on the same basis as himself, since they would feel themselves responsible not to him but to the bodies which had elected them. It was indeed possible that the result of the Four-Power proposal would be that instead of the Secretary-General being the chief administrative officer, the international Secretariat would be run by a committee of five. Moreover, the fixing by the Great Powers of four as the number of Deputies must inevitably give rise to the fear that each of the five Great Powers intended to assure itself of the election of one of its nationals to the post of Secretary-General or Deputy Secretary-General.

THE INTERNATIONAL POSITION OF THE SECRETARIAT

One of the two Canadian amendments incorporated in the chapter on the Secretariat covered much the same ground as an amendment proposed by the Sponsoring Powers. As finally adopted by the Conference, the provision reads as follows:

> 1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.
>
> 2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities. (Article 100.)

The other Article on the international character of the Secretariat was based in the main on substantially similar amendments put forward by the New Zealand and Canadian delegations. As approved by the Conference, the Article reads as follows:

> 1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.
>
> 2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.
>
> 3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible. (Article 101.)

Miscellaneous Provisions
(Chapter XVI of the Charter)

REGISTRATION AND PUBLICATION OF TREATIES

The Conference decided to include in the Charter an Article on the registration and publication of treaties, reading as follows:

> 1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.
>
> 2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations. (Article 102.)

The word "agreement" includes unilateral engagements of an international character which have been accepted by the state in whose favour the engagement has been made. The obligation of registration is limited to treaties or international agreements concluded after the Charter comes into force. Any state has the right, however, to register earlier treaties. A non-member state has the privilege of registering its treaties with the Secretariat just as the United States used to register its treaties with the League of Nations.

OBLIGATIONS INCONSISTENT WITH THE CHARTER

The Conference agreed that it was necessary to incorporate in the Charter a provision regarding inconsistency between the obligations of Members under other treaties and under the Charter itself, if only because the omission of such a provision might cause misunderstanding since Article 20 of the Covenant of the League of Nations had covered the subject in considerable detail. On the other hand, the Conference decided that it would be inadvisable to provide for the automatic abrogation by the Charter of obligations inconsistent with its terms. The rule should depend on and be linked with a conflict between the two categories of obligations. In the event of such a conflict, the obligations of the Charter would be pre-eminent and would exclude any others.

A text embodying these ideas was adopted by the Conference. It read as follows:

> In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail. (Article 103.)

The nature of the possible conflict was not defined, but it was agreed that it would be enough that the conflict arose from the carrying out of an obligation of the Charter. It would be immaterial whether the conflict arose because of an inconsistency between the two categories of obligations or as a result of the application of the provisions of the Charter. Thus a Member called upon to apply economic sanctions against an aggressor state, whether a Member of the Organization or not, will not be able to plead inability to discriminate against that state because some commercial treaty, for example, calls for most favoured nation treatment of the trade of that state.

The question of what organ should determine issues of inconsistency arising out of the provisions of this Article was raised but not considered. Some delegates stated that it would be a matter on which an advisory opinion of the International Court should be secured and, since the Statute of the Court provided that one of its functions should be the interpretation of treaties, no state-

ment on this need appear in the Charter. Other delegates were of the opinion that any organ of the Organization could determine this question if it arose in connection with a matter under its consideration.

LEGAL CAPACITY

The Conference decided to include in the Charter the following Article on the legal capacity of the Organization:

> The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its Purposes. (Article 104.)

This provision is conceived in very general terms. It is confined to a statement of the obligation incumbent upon each Member to act in such a way that the Organization enjoys in its territory a juridical status permitting it to exercise its functions. For instance, the Organization must be able, in its own name, to make contracts, to hold movable and immovable property, and to appear in court.

The Conference preferred to express no opinion on the procedures of internal law necessary to assure this result. These procedures may differ according to the legislation of each Member. Among the majority of them the Organization may have to be recognized as a juridical person.

The question of whether it was necessary to include in the Charter a provision on the international juridical personality of the Organization was discussed. The Canadian representative stated that in his opinion this would be superfluous since the personality of the Organization would be determined by implication from the provisions of the Charter taken as a whole. There was general agreement with this view.

PRIVILEGES AND IMMUNITIES OF THE ORGANIZATION

On the proposal of the Canadian and other delegations, the Conference decided to include an Article in the Charter on the subject of the privileges and immunities of the Organization, its officials and the representatives of its Members. The Article reads as follows:

> 1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.
>
> 2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.
>
> 3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose. (Article 105.)

Paragraph 1 of the Article refers to the Organization considered as a distinct entity and thus covers all the organs of the Organization which are or may be established under Article 7 of the Charter.

Paragraph 2 of the Article corresponds to the following amendment submitted by the Canadian delegation:

> With a view to ensuring the independence of the United Nations, the official international organizations or agencies brought into relationship with it, and the personnel of the United Nations and such related agencies, their legal status and appropriate immunities from national jurisdiction shall be defined by a convention to be adopted by the General Assembly for submission to the Members of the United Nations.

INTERPRETATION OF THE CHARTER

The question of the interpretation of the Charter was raised by the Belgian delegation, and the following conclusions, which are embodied in the report of the rapporteur of the committee, were reached.

In the course of the day-to-day operation of the Organization, each organ will inevitably interpret such parts of the Charter as are applicable to its particular functions. Accordingly, it is not necessary to include in the Charter a provision either authorizing or approving this principle.

Difficulties may conceivably arise in the event of a difference of opinion among the organs of the Organization about the correct interpretation of a provision of the Charter. Under unitary forms of national government the final determination of such a question may be vested in the highest court or in some other national authority. However, the nature of the Organization and of its operation would not seem to be such as to invite the inclusion in the Charter of any provision of this nature.

If two Members are at variance concerning the correct interpretation of the Charter, they are, of course, free to submit the dispute to the International Court of Justice just as they are free to submit a dispute on the interpretation of any other treaty. Similarly, it would always be open to the General Assembly or to the Security Council to ask the International Court of Justice for an advisory opinion concerning the meaning of a provision of the Charter. Should the General Assembly or the Security Council prefer another course, an *ad hoc* committee of jurists might be set up to examine the question and report its views, or recourse might be had to a joint conference.

Thus the Members or the organs of the Organization might have recourse to various expedients in order to obtain an appropriate interpretation. It appeared to the committee neither necessary nor desirable to list or to describe these expedients in the Charter.

It is to be understood, of course, that if an interpretation made by any organ of the Organization or by a committee of jurists is not generally acceptable, it will be without binding force. In such circumstances, or where it is desired to establish an authoritative interpretation as a precedent for the future, it may be necessary to embody the interpretation in an amendment to the Charter.

RELATION OF THE CHARTER TO INTERNAL LAW

A proposal that the Charter should contain a clause stating that no Member may evade obligations under the Charter by invoking the provisions of its internal law failed to receive the necessary two-thirds majority. Accordingly, the committee concerned made no recommendation to the Conference. There was no disagreement, however, with the principle underlying the proposal. Those who opposed it did so on the ground that it did not need to be inserted in the Charter but more properly belonged to a codification of international law.

Transitional Security Arrangements

(Chapter XVII of the Charter)

The paragraphs of the Dumbarton Oaks Proposals headed "Transitional Arrangements" raised questions of importance to the Organization and its Members. Both paragraphs made provision for taking the steps necessary to maintain or restore peace and security during the period which must elapse before the Security Council can assume its full responsibilities. Some such provisions are obviously essential. The principal Allies must continue to take collective action in the period immediately ahead, and the Organization cannot from its inception assume responsibility for the full enforcement of the peace terms against enemy states.

The first of the two paragraphs of the Dumbarton Oaks Proposals provided that "pending the coming into force of the special agreement or agreements" referred to in what is now Article 43 of the Charter, the four powers which signed the Moscow Declaration of 1943 (China, the Soviet Union, the United Kingdom and the United States) should have the duty of consulting "with one another and as occasion arises with other Members of the Organization with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security".

This paragraph contained at least two obscurities. In the first place, it could be interpreted to mean that temporary authority would be vested in the four powers until military agreements had been made between the Security Council and every Member of the Organization. Secondly, the term "joint action" was nowhere defined and therefore the paragraph might be interpreted to mean that during the transitional period the four powers and not the Security Council would be responsible for the pacific settlement of disputes under Chapter VI of the Charter. Although these interpretations were possible, they were at variance with the intention of the drafters of the paragraph that the Security Council should, from its inception, assume as large a share as possible of its responsibilities, including all its functions with respect to the pacific settlement of disputes.

The Canadian delegation at a meeting of the committee on May 30 sought greater precision in the text. The representatives of Canada, Australia, Belgium, Mexico and New Zealand all stated that, while fully admitting the necessity of including the substance of both the paragraphs in the Charter, they could not accept the text as it stood. The representatives of the Great Powers, however, pressed the first paragraph to a vote, in which its adoption was defeated by a vote of 9 for to 21 against.

As a result of this vote the Great Powers later submitted a revised text of the first paragraph. The special position of the five Great Powers (they had been increased from four to five by the addition of France) was now to terminate when the Security Council decided that the military agreements which had been concluded with it were sufficient to enable it to apply armed sanctions under Article 43. Since, however, no definition of "joint action" was given, the Canadian representative, when the revised text came before the committee, urged, with the support of several other delegations, that a more exact definition be incorporated in the rapporteur's report.

The relevant section of the rapporteur's report reads as follows:

> Several delegations, especially those of Canada, Egypt, and Belgium, requested the delegations submitting the amendment to make a declaration explaining the meaning of the words "joint action on behalf of the Organization".
>
> The delegate of the United Kingdom pointed out that it was impossible to define such an action, since the powers of the Security Council would gradually develop in proportion to the forces which would be put at its disposal by the special agreements concluded with Members of the Organization.
>
> The delegate of the United States, for his part, explained that the meaning of the words "joint action" might be deduced without difficulty from the first part of the paragraph, which referred to the special agreements mentioned in Chapter VIII, Section B, paragraph 5. As a result, the Security Council would begin to exercise at once all its responsibilities except those which it could not undertake until the conclusion of the special agreements indicated above. Furthermore, the powers granted by the Charter to an organ of the Organization would come immediately into force unless the contrary were expressly stated.
>
> The rapporteur confirmed the clear interpetation given by the delegate of the United States.

The second of the two paragraphs of the Dumbarton Oaks Proposals referring to Transitional Arrangements was as follows:

> No provision of the Charter should preclude action taken or authorized in relation to enemy states as a result of the present war by the Governments having responsibility for such action.

This paragraph, like the preceding paragraph, was open to the objection that it was so loosely drafted that it might give rise to avoidable and perhaps even dangerous controversies over its meaning. By an extreme interpretation it might even be claimed that its adoption would remove from the competence of the Organization for an indefinite period, if not in perpetuity, any action affecting any enemy state, large or small, which any Allied Government might choose to regard as a result of the war.

The Canadian delegation, while making clear that it agreed that the Security Council should not assume responsibility for the immediate enforcement of peace terms against Germany or Japan, urged that the paragraph be more precisely drafted. Discussion of the paragraph was postponed, with the result that it came before the committee for discussion only on June 18.

As discussion of the draft had been postponed in order to permit the Great Powers to consider the criticisms made by the Canadian and other delegations, the representative of Canada protested against their failure to present a revised text, and the Australian, Belgian and New Zealand representatives supported his position. On the understanding that the rapporteur's report should contain interpretations of the language, the committee agreed to the original draft by a vote of 22 to 2 with many abstentions.

As it appears in the Charter the paragraph reads as follows:

> Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action. (Article 107.)

The relevant section of the rapporteur's report reads as follows:

> The delegate of the United Kingdom gave the following explanations concerning these points [the obscurities in the text]:
>
> 1. *Enemy states* are those which, on the day of the signature of the Charter, are still in a state of war with any one of the United Nations.
>
> 2. *The present war* is to be understood as the war or series of wars which began on or after September 3, 1939, and which are still in progress.
>
> 3. *Action taken or authorized.* It might be difficult to limit this action, as had been suggested by the Australian delegate, to that decided upon in an armistice, a peace treaty, or a joint declaration like the Declaration of Moscow, because responsibility, as envisaged in paragraph 2, could fall upon a state which is party to none of these acts.
>
> As to the exact meaning of the expression "action taken or authorized", the delegate of the United Kingdom declared that, in his opinion, the distinction is made between "positive" and "negative" action; that is to say, between action with respect to enemy states by the Governments responsible for this action, and the action which the responsible Governments had authorized other Governments to take.
>
> The Committee, in concluding, discussed the duration of the time period during which the measures envisioned in paragraph 2 could be taken. It appeared impossible to fix a term but the hope and expectation were widely expressed that the Security Council would assume its full responsibility as soon as possible.

On the motion of the United States representative the committee also voted to insert in the report the following understanding:

> It is understood that the enemy states in this war shall not have the right of recourse to the Security Council or the General Assembly before the Security Council grants them this right.

Amendments

(Chapter XVIII of the Charter)

THE CANADIAN POSITION

An international body such as the United Nations cannot work effectively if the constitutional document on which it is based is subject to frequent serious alteration. Continuous controversies over constitutional amendments can embitter international relations and divert the energies of the Organization from constructive activities. States will, moreover, be reluctant to join the Organization if their obligations under its constitution can be constantly changed without their consent, or with their consent given grudgingly as a lesser evil than withdrawal.

On the other hand, the constitution should not be too rigid. It must be capable of growth and of adaptation to changing conditions. It should be framed in terms broad enough to permit a measure of growth and adaptation without the necessity of formal constitutional amendment. The process of securing constitutional amendments should not be too difficult.

The argument against rigidity in a document such as the Charter of the United Nations is particularly strong. No Charter drawn up in 1945 can be complete or final. The states and peoples of the world are, in setting up the United Nations Organization, experimenting in many new fields of international co-operation. For some years they will be continuing to experiment in the unusual conditions of the transition period between war and peace. Moreover, the present Charter was drawn up while the United Nations were still at war all over the world, while some Governments were still in exile and others had only recently returned to their countries.

It was therefore important that the Charter to be adopted at San Francisco should be flexible—capable of growth from within by the development of custom and precedent and by the adoption of regulations—capable of change by formal constitutional amendment when the world had returned to a more normal state.

The Prime Minister of Canada emphasized this necessity in his address to the House of Commons on March 20, 1945, a month before the San Francisco Conference met. He said:

> In view of the difficulty of planning a world security organization, especially while the world itself is still at war, it might be desirable to include in the Charter some provision for its general review after a term of years.(1)

This suggestion was placed formally before the Conference as one of the Canadian amendments. The following is the text of the amendment:

> In the course of the tenth year from the date on which the Charter shall come into effect, a special Conference of the United Nations shall be convened to consider the general revision of the Charter, in the light of the experience of its operation.

The Canadian amendment did not specify how the amendments agreed on at this Conference should come into force. Other delegations had proposed

(1) House of Commons Debates, Official Report, Daily Edition, March 20, 1945, page 30.

amendments with the object of modifying the veto of the permanent members of the Council over amendments to the Charter, and the Canadian delegation was prepared to support these proposals.

During the course of discussion in committee, the Canadian delegation did not press its objections to the right of a Great Power to veto the coming into force of amendments adopted by the ordinary amendment procedure. It also withdrew its proposal that the General Revisionary Conference should necessarily be held in the tenth year of the Organization's existence in view of the weighty arguments of the Great Powers that that particular year might be one of political and economic crisis when it would clearly be undesirable to hold the Conference. The Canadian and other delegations did, however, try to persuade the Great Powers to agree that the question whether each of them should have the right to veto amendments adopted by a Revisionary Conference should not be decided at San Francisco but at the Revisionary Conference itself.

THE FOUR-POWER PROPOSALS

The original Dumbarton Oaks Proposals had not contained any reference to a Special Revisionary Conference. They provided for an amendment procedure under which amendments required the ratification of all five Great Powers and a majority of the other Members of the Organization. This proposal was ultimately accepted by the Conference with one change—the substitution of ratification by two thirds of the Members of the United Nations, including all the permanent members of the Security Council, for ratification by the permanent members of the Security Council and by a majority of the other Members of the United Nations. The Article reads as follows:

> Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council. (Article 108.)

After the Canadian delegation had submitted its proposal for a Special Revisionary Conference during the tenth year of the Organization's existence, the four Sponsoring Powers brought in an amendment providing that a general conference for the purpose of reviewing the Charter could be convened at any time by a vote of three-fourths of the General Assembly and by a vote of any seven members of the Security Council. This general conference would have the same power with respect to amendments as those granted to the General Assembly under the original Dumbarton Oaks Proposals. Like the General Assembly, it could adopt amendments by a two-thirds vote, and any amendment it adopted, like any adopted by the General Assembly, would not come into force if any Great Power failed to ratify it or if a majority of the other powers failed to ratify it.

The Four-Power amendment made little change in the previous position, especially as it had been decided early in the Conference that a bare majority of the Members of the United Nations had the right to have a special session of the General Assembly convened at any time (Article 20) and such a session could be convened for the sole purpose of reviewing the Charter.

In spite of this, the Conference ultimately accepted the Four-Power proposal on a general conference. The most that the Four Powers were willing to concede was a reduction of the vote of the General Assembly required to convene the conference from three fourths to two thirds, and a provision that if the conference had not been held before the tenth annual session of the General

Assembly, it could be convened by a majority vote of the General Assembly (with the concurrence of any seven members of the Security Council). In addition the ratification provisions were modified to make them identical with the ratification provisions for ordinary amendments in Article 108.

The Article on the General Revisionary Conference reads as follows:

> 1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.
>
> 2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.
>
> 3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council. (Article 109.)

Thus the efforts of the majority of the states represented at the San Francisco Conference did not succeed in securing a flexible amendment procedure. According to the Charter as adopted, each of the five Great Powers possesses, so long as the Organization continues to exist and it continues to be a Member, the right to veto the coming into force of any amendment.

AMENDMENTS AND WITHDRAWAL

A result of the extent of the Great Power veto over amendments was the recognition by the Conference of the right of Members to withdraw from the Organization. This right of withdrawal was couched in broad terms. (See above, pages 20 to 23 for discussion of the right of withdrawal.)

Clearly the Organization will have failed if this right of withdrawal is exercised by important states or by a considerable number of states of lesser importance. The United Nations will succeed only if its Members are willing to forego the exercise, save in the most exceptional circumstances, of their rights to veto and to withdraw.

The exercise over the next five or ten years of a spirit of mutual forbearance and mutual confidence will pave the way to a successful General Revisionary Conference.

In the course of the debates over the amendment procedure the Canadian delegation was closely associated with other delegations with the same objectives in view. Indeed, throughout the Conference the Canadian delegation owed much in many fields to the friendly co-operation of other United Nations delegations. It is fitting and natural that in this report emphasis should have been placed upon Canada's part at the Conference, but the attainment of many common aims was due to joint efforts with other delegations who shared the views of Canada.

Ratification and Signature

(Chapter XIX of the Charter)

The final chapter of the Charter provides that it shall come into force when it has been ratified by the five Great Powers and by a majority of the other signatory states. Since, when Poland signs the Charter, there will be fifty-one

signatories, this means that the Organization will be constituted as soon as the five Great Powers and twenty-four other signatory states have ratified the Charter. (Article 110.)

The Charter is drawn up in five languages—Chinese, English, French, Russian and Spanish. Each of the five texts is equally authentic. (Article 111.)

SECTION 5

THE PREPARATORY COMMISSION

The Preparatory Commission is charged with making the interim arrangements required between the signing of the Charter at San Francisco and the convening of the first sessions of the principal organs of the United Nations.

The two main tasks of the Commission are first, to study and make recommendations on certain questions which could not well be handled at San Francisco, and second, to expedite the work of the new organization by thorough preparation for its initial meetings. Both tasks are of great importance, the second particularly so because of the urgency of many of the problems awaiting action by the General Assembly, the Security Council, the Economic and Social Council, and other organs.

In order to make it possible to set up the Commission immediately, the instrument creating it was put in the form of an intergovernmental agreement, with the provision that it come into effect on the day on which it was signed. It was signed on June 26 at the same time as the Charter.

The Commission consists of one representative of each signatory Government. An Executive Committee is provided to exercise the functions and powers of the Commission when it is not in session. This Committee is composed of the same states as those which made up the Executive Committee of the Conference, namely Australia, Brazil, Canada, Chile, China, Czechoslovakia, France, Iran, Mexico, Netherlands, Union of Soviet Socialist Republics, United Kingdom, United States, and Yugoslavia.

The functions of the Commission fall into two groups. The first includes:

(1) the formulation of recommendations concerning the possible transfer of certain functions, activities and assets of the League of Nations which it may be considered desirable for the United Nations to take over on terms to be arranged;

(2) the examination of problems involved in the establishment of the relationship between specialized intergovernmental organizations and agencies and the United Nations; and

(3) the preparation of studies and recommendations concerning the location of the permanent headquarters of the United Nations.

The second group of functions includes:

(1) convening the first session of the General Assembly;

(2) preparing the provisional agenda for the first sessions of the principal organs of the United Nations, and preparing documents and recommendations relating to all matters on these agenda;

(3) the issuance of invitations for the nomination of candidates for the International Court of Justice in accordance with the provisions of the Statute of the Court; and

(4) the preparation of recommendations concerning arrangements for the Secretariat of the United Nations.

It was decided that the Commission should meet in London, where the Secretariat of the Commission headed by an Executive Secretary is now being established. The staff of the Secretariat is to be composed so far as possible of officials appointed for the purpose on the invitation of the Executive Secretary by the participating Governments.

The Commission held its first session in San Francisco immediately after the closing session of the Conference and made arrangements that its work should be carried on by the Executive Committee to meet in August in London. The Executive Committee will call the full Preparatory Commission into session again as soon as possible after the Charter of the United Nations has come into effect. Further sessions will be held if desired, but it is anticipated that the first sessions of the principal organs can be convened not long after the Charter has come into force through the deposit of the required number of ratifications.

The Commission will cease to function upon the election of the Secretary-General of the United Nations, and its property and records will be transferred to the United Nations.

The text of the interim arrangements setting up the Preparatory Commission will be found in Appendix C.

Appendix A

There follows, on the left hand pages of this Appendix, the complete text of the Charter of the United Nations adopted at San Francisco. On the right hand pages of the Appendix there appears the text of the proposals adopted at Dumbarton Oaks as amplified by the voting formula adopted at the Crimea Conference. The material has been set up in parallel form to facilitate comparison.

CHARTER OF THE UNITED NATIONS

WE THE PEOPLES OF THE UNITED NATIONS
DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS
TO ACCOMPLISH THESE AIMS.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

Appendix A

There follows, on the right hand pages of this Appendix, the text of the Proposals adopted at Dumbarton Oaks as amplified by the voting formula adopted at the Crimea Conference. On the left hand pages of the Appendix there appears the complete text of the Charter of the United Nations adopted at San Francisco. The material has been set up in parellel form to facilitate comparison.

DUMBARTON OAKS PROPOSALS

There should be established an international organization under the title of The United Nations, the Charter of which should contain provisions necessary to give effect to the proposals which follow.

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CHAPTER I
PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER I

PURPOSES

The purposes of the Organization should be:

1. To maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace;

2. To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace;

3. To achieve international cooperation in the solution of international economic, social and other humanitarian problems; and

4. To afford a centre for harmonizing the actions of nations in the achievement of these common ends.

CHAPTER II

PRINCIPLES

In pursuit of the purposes mentioned in Chapter I the Organization and its members should act in accordance with the following principles:

1. The Organization is based on the principle of the sovereign equality of all peace-loving states.

2. All members of the Organization undertake, in order to ensure to all of them the rights and benefits resulting from membership in the Organization, to fulfil the obligations assumed by them in accordance with the Charter.

3. All members of the Organization shall settle their disputes by peaceful means in such a manner that international peace and security are not endangered.

4. All members of the Organization shall refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the Organization.

5. All members of the Organization shall give every assistance to the Organization in any action undertaken by it in accordance with the provisions of the Charter.

6. All members of the Organization shall refrain from giving assistance to any state against which preventive or enforcement action is being undertaken by the Organization.

The Organization should ensure that states not members of the Organization act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

7. The provisions of paragraph 1 to 6 Section A should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the state concerned.

(From Ch. VIII, Sec. A, Par. 7)

CHAPTER II
MEMBERSHIP

Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III
ORGANS

Article 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER III
MEMBERSHIP

1. Membership of the Organization should be open to all peace-loving states.

2. The General Assembly should be empowered to admit new members to the Organization upon recommendation of the Security Council.

(From Ch. V, Sec. B. Par. 2)

3. The General Assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by decision of the Security Council . . .

(From Ch. V, Sec. B, Par. 3)

. . . The General Assembly should be empowered, upon recommendation of the Security Council, to expel from the Organization any member of the Organization which persistently violates the principles contained in the Charter.

(From Ch. V, Sec. B, Par. 3)

CHAPTER IV
PRINCIPAL ORGANS

1. The Organization should have as its principal organs:

   a. A General Assembly;
   b. A Security Council;
   c. An international court of justice; and
   d. A Secretariat.

2. The Organization should have such subsidiary agencies as may be found necessary.

CHAPTER IV
THE GENERAL ASSEMBLY

Composition

Article 9

1. The General Assembly shall consist of all the Members of the United Nations.

2. Each Member shall have not more than five representatives in the General Assembly.

Functions and Powers

Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

CHAPTER V
THE GENERAL ASSEMBLY

Section A. Composition

All members of the Organization should be members of the General Assembly and should have a number of representatives to be specified in the Charter.

Section B. Functions and Powers

1. The General Assembly should have the right to consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or question. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion . . .

(See above, Ch. V, Sec. B, Par. 1)

. . . The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic and social fields and of adjusting situations likely to impair the general welfare.

(See above, Ch. V, Sec. B, Par. 6)

8. The General Assembly should receive and consider annual and special reports from the Security Council and reports from other bodies of the Organization.

5. The General Assembly should apportion the expenses among the members of the Organization and should be empowered to approve the budgets of the Organization.

(See below, Ch. IX, Sec. C, Par. 1d, p. 101)

(See below, Articles 23, 61, 97. Also, Article 10 of the Statute of the International Court of Justice)

Voting

Article 18

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (*c*) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Procedure

Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

4. The General Assembly should elect the non-permament members of the Security Council and the members of the Economic and Social Council provided for in Chapter IX. It should be empowered to elect, upon recommendation of the Security Council, the Secretary-General of the Organization. It should perform such functions in relation to the election of the judges of the international court of justice as may be conferred upon it by the statute of the Court.

Section C. Voting

1. Each member of the Organization should have one vote in the General Assembly.

2. Important decisions of the General Assembly, including recommendations with respect to the maintenance of international peace and security; election of members of the Security Council; election of members of the Economic and Social Council; admission of members, suspension of the exercise of the rights and privileges of members, and expulsion of members; and budgetary questions, should be made by a two-thirds majority of those present and voting. . .

. . . On other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, the decisions of the General Assembly should be made by a simple majority vote.

Section D. Procedure

1. The General Assembly should meet in regular annual sessions and in such special sessions as occasion may require.

2. The General Assembly should adopt its own rules of procedure and elect its President for each session.

3. The General Assembly should be empowered to set up such bodies and agencies as it may deem necessary for the performance of its functions.

CHAPTER V
THE SECURITY COUNCIL

Composition

Article 23

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one yar. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

Functions and Powers

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

CHAPTER VI
THE SECURITY COUNCIL

Section A. Composition

The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, should have permanent seats. The General Assembly should elect six states to fill the non-permanent seats. These six states should be elected for a term of two years, three retiring each year. They should not be immediately eligible for reelection. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

Section B. Principal Functions and Powers

1. In order to ensure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility it should act on their behalf.

2. In discharging these duties the Security Council should act in accordance with the purposes and principles of the Organization.

3. The specific powers conferred on the Security Council in order to carry out these duties are laid down in Chapter VIII.

4. All members of the Organization should obligate themselves to accept the decisions of the Security Council and to carry them out in accordance with the provisions of the Charter.

5. In order to promote the establishment and maintenance of international peace and security with the least diversion of the world's human and economic resources for armaments, the Security Council, with the assistance of the Military Staff Committee referred to in Chapter VIII, Section B, paragraph 9, should have the responsibility for formulating plans for the establishment of a system of regulation of armaments for submission to the members of the Organization.

Voting

Article 27

1. Each member of the Security Council shall have one vote.

2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Procedure

Article 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.

2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.

3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

Section C. Voting

[NOTE: Here follows the text of Section C as proposed at the Crimea Conference:

1. Each member of the General Assembly should have one vote.

2. Decisions of the Security Council on procedural matters should be made by an affirmative vote of seven members.

3. Decisions of the Security Council on all other matters should be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VIII, Section A, and under the second sentence of Paragraph 1 of Chapter VIII, Section C, a party to a dispute should abstain from voting.]

Section D. Procedure

1. The Security Council should be so organized as to be able to function continuously and each state member of the Security Council should be permanently represented at the headquarters of the Organization. It may hold meetings at such other places as in its judgment may best facilitate its work. There should be periodic meetings at which each state member of the Security Council could if it so desired be represented by a member of the government or some other special representative.

2. The Security Council should be empowered to set up such bodies or agencies as it may deem necessary for the performance of its functions including regional subcommittees of the Military Staff Committee.

3. The Security Council should adopt its own rules of procedure, including the method of selecting its President.

4. Any member of the Organization should participate in the discussion of any question brought before the Security Council whenever the Security Council considers that the interests of that member of the Organization are specially affected.

5. Any member of the Organization not having a seat on the Security Council and any state not a member of the Organization, if it is a party to a dispute under consideration by the Security Council, should be invited to participate in the discussion relating to the dispute.

CHAPTER VI

PACIFIC SETTLEMENT OF DISPUTES

Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determne whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

CHAPTER VIII

ARRANGEMENTS FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY INCLUDING PREVENTION AND SUPPRESSION OF AGGRESSION

Section A. Pacific Settlement of Disputes

3. The parties to any dispute the continuance of which is likely to endanger the maintenance of international peace and security should obligate themselves, first of all, to seek a solution by negotiation, mediation, conciliation, arbitration or judicial settlement, or other peaceful means of their own choice. The Security Council should call upon the parties to settle their dispute by such means.

1. The Security Council should be empowered to investigate any dispute, or any situation which may lead to international friction or give rise to a dispute, in order to determine whether its continuance is likely to endanger the maintenance of international peace and security.

2. Any state, whether member of the Organization or not, may bring any such dispute or situation to the attention of the General Assembly or of the Security Council.

5. The Security Council should be empowered, at any stage of a dispute of the nature referred to in paragraph 3 above, to recommend appropriate procedures or methods of adjustment.

6. Justiciable disputes should normally be referred to the international court of justice. The Security Council should be empowered to refer to the court, for advice, legal questions connected with other disputes.

Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38

Wthout prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII

ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned, The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

4. If, nevertheless, parties to a dispute of the nature referred to in paragraph 3 above fail to settle it by the means indicated in that paragraph, they should obligate themselves to refer it to the Security Council. The Security Council should in each case decide whether or not the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, and, accordingly, whether the Security Council should deal with the dispute, and, if so, whether it should take action under paragraph 5.

Section B. Determination of Threats to the Peace or Acts of Aggression and Action With Respect Thereto

2. In general the Security Council should determine the existence of any threat to the peace, breach of the peace or act of aggression and should make recommendations or decide upon the measures to be taken to maintain or restore peace and security.

1. Should the Security Council deem that a failure to settle a dispute in accordance with procedures indicated in paragraph 3 of Section A, or in accordance with its recommendations made under paragraph 5 of Section A, constitutes a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organization.

3. The Security Council should be empowered to determine what diplomatic, economic, or other measures not involving the use of armed force should be employed to give effect to its decisions, and to call upon members of the Organization to apply such measures. Such measures may include complete or partial interruption of rail, sea, air, postal, telegraphic, radio and other means of communication and the severance of diplomatic and economic relations.

4. Should the Security Council consider such measures to be inadequate, it should be empowered to take such action by air, naval or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade and other operations by air, sea or land forces of members of the Organization.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

5. In order that all members of the Organization should contribute to the maintenance of international peace and security, they should undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements concluded among themselves, armed forces, facilities and assistance necessary for the purpose of maintaining international peace and security. Such agreement or agreements should govern the numbers and types of forces and the nature of the facilities and assistance to be provided. The special agreement or agreements should be negotiated as soon as possible and should in each case be subject to approval by the Security Council and to ratification by the signatory states in accordance with their constitutional processes.

6. In order to enable urgent military measures to be taken by the Organization there should be held immediately available by the members of the Organization national air force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action should be determined by the Security Council with the assistance of the Military Staff Committee within the limits laid down in the special agreement or agreements referred to in paragraph 5 above.

8. Plans for the application of armed force should be made by the Security Council with the assistance of the Military Staff Committee referred to in paragraph 9 below.

9. There should be established a Military Staff Committee the functions of which should be to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, to the employment and command of forces placed at its disposal, to the regulation of armaments, and to possible disarmament. It should be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the Organization not permanently represented on the Committee should be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires that such a state should participate in its work. Questions of command of forces should be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII
REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

(See above, Ch. VI, Sec. D, Par. 2, p. 87)

7. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security should be taken by all the members of the Organization in cooperation or by some of them as the Security Council may determine. This undertaking should be carried out by the members of the Organization by their own action and through action of the appropriate specialized organizations and agencies of which they are members.

10. The members of the Organization should join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

11. Any state, whether a member of the Organization or not, which finds itself confronted with special economic problems arising from the carrying out of measures which have been decided upon by the Security Council should have the right to consult the Security Council in regard to a solution of those problems.

Section C. Regional Arrangements

1. Nothing in the Charter should preclude the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided such arrangements or agencies and their activities are consistent with the purposes and principles of the Organization. The Security Council should encourage settlement of local disputes through such regional arrangements or by such regional agencies, either on the initiative of the states concerned or by reference from the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX

INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;

b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

2. The Security Council should, where appropriate, utilize such arrangements or agencies for enforcement action under its authority, but no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council.

3. The Security Council should at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX

ARRANGEMENTS FOR INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION

Section A. Purpose and Relationships

1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms. Responsibility for the discharge of this function should be vested in the General Assembly and, under the authority of the General Assembly, in an Economic and Social Council.

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X

THE ECONOMIC AND SOCIAL COUNCIL

Composition

Article 61

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

2. The various specialized economic, social and other organizations and agencies would have responsibilities in their respective fields as defined in their statutes. Each such organization or agency should be brought into relationship with the Organization on terms to be determined by agreement between the Economic and Social Council and the appropriate authorities of the specialized organization or agency, subject to approval by the General Assembly.

7. The General Assembly should make recommendations for the coordination of the policies of international economic, social, and other specialized agencies brought into relation with the Organization in accordance with agreements between such agencies and the Organization.

(From Ch. V, Sec. B, Par. 7)

(See above, Ch. V, Sec. B, Par. 7)

Section B. Composition and Voting

The Economic and Social Council should consist of representatives of eighteen members of the Organization. The states to be represented for this purpose should be elected by the General Assembly for terms of three years. . . .

Functions and Powers

Article 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

(See above, Ch. IV, Art. 17, Par. 3, p. 80)

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Section C. Functions and Powers of the Economic and Social Council

1. The Economic and Social Council should be empowered:
   a. to carry out, within the scope of its functions, recommendations of the General Assembly;
   b. to make recommendations, on its own initiative, with respect to international economic, social and other humanitarian matters;
   c. to receive and consider reports from the economic, social and other organizations or agencies brought into relationship with the Organization, and to coordinate their activities through consultations with, and recommendations to, such organizations or agencies;

   d. to examine the administrative budgets of such specialized organizations or agencies with a view to making recommendations to the organizations or agencies concerned;

(See above, Ch. IX, Sec. A, Par. 2, p. 99)

(See above, Ch. IX, Sec. C, Par. 1, c)

   e. to enable the Secretary-General to provide information to the Security Council;
   f. to assist the Security Council upon its request; and

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

Article 67

Voting

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Procedure

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

Article 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

(See above, Ch. IX, Sec. C, Par. 1, a, p. 101)

g. to perform such other functions within the general scope of its competence as may be assigned to it by the General Assembly.

...Each such state should have one representative, who should have one vote. Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting.

(From Ch. IX, Sec. B)

Section D. Organization and Procedure

1. The Economic and Social Council should set up an economic commission, a social commission, and such other commissions as may be required. These commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.

2. The Economic and Social Council should make suitable arrangements for representatives of the specialized organizations or agencies to participate without vote in its deliberations and in those of the commissions established by it.

3. The Economic and Social Council should adopt its own rules of procedure and the method of selecting its President.

CHAPTER XI

DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabiants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII

INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Appendix A—(Continued)—Dumbarton Oaks Proposals

(No Comparable Text)

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

a. to further international peace and security;

b. to promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

a. territories now held under mandate;

b. territories which may be detached from enemy states as a result of the Second World War; and

c. territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

Th trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Appendix A—(Continued)—Dumbarton Oaks Proposals

(No Comparable Text)

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79 and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Scurity Council.

2. The basic objctives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

(No Comparable Text)

CHAPTER XIII

THE TRUSTEESHIP COUNCIL

Composition

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

a. those Members administering trust territories;

b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and

c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

Functions and Powers

Article 87

1. The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

a. consider reports submitted by the administering authority;

b. accept petitions and examine them in consultation with the administering authority;

c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

d. take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

Voting

Article 89

1. Each member of the Trusteeship Council shall have one vote.

2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Appendix A—(Continued)—Dumbarton Oaks Proposals

(No Comparable Text)

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV

THE INTERNATIONAL COURT OF JUSTICE

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

(No Comparable Text)

CHAPTER VII
AN INTERNATIONAL COURT OF JUSTICE

1. There should be an international court of justice which should constitute the principal judicial organ of the Organization.

2. The Court should be constituted and should function in accordance with a statute which should be annexed to and be a part of the Charter of the Organization.

3. The statute of the court of international justice should be either (a) the Statute of the Permanent Court of International Justice, continued in force with such modifications as may be desirable or (b) a new statute in the preparation of which the Statute of the Permanent Court of International Justice should be used as a basis.

4. All members of the Organization should *ipso facto* be parties to the statute of the international court of justice.

5. Conditions under which states not members of the Organization may become parties to the statute of the international court of justice should be determined in each case by the General Assembly upon recommendation of the Security Council.

(See above, Ch. VIII, Sec. A, Par. 6, p. 89)

CHAPTER XV

THE SECRETARIAT

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER X

THE SECRETARIAT

1. There should be a Secretariat comprising a Secretary-General and such staff as may be required. The Secretary-General should be the chief administrative officer of the Organization. He should be elected by the General Assembly, on recommendation of the Security Council, for such term and under such conditions as are specified in the Charter.

2. The Secretary-General should act in that capacity in all meetings of the General Assembly, of the Security Council, and of the Economic and Social Council and should make an annual report to the General Assembly on the work of the Organization.

3. The Secretary-General should have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security.

(No Comparable Text)

CHAPTER XVI

MISCELLANEOUS PROVISIONS

Article 102

1. Every treaty and every international agreement entered into by any member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII

TRANSITIONAL SECURITY ARRANGEMENTS

Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

(No Comparable Text)

CHAPTER XII
TRANSITIONAL ARRANGEMENTS

1. Pending the coming into force of the special agreement or agreements referred to in Chapter VIII, Section B, paragraph 5, and in accordance with the provisions of paragraph 5 of the Four-Nation Declaration, signed at Moscow, October 30, 1943, the states parties to that Declaration should consult with one another and as occasion arises with other members of the Organization with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII

AMENDMENTS

Article 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX

RATIFICATION AND SIGNATURE

Article 110

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

2. No provision of the Charter should preclude action taken or authorized in relation to enemy states as a result of the present war by the Governments having responsibility for such action.

CHAPTER XI

AMENDMENTS

Amendments should come into force for all members of the Organization, when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization.

(No Comparable Text)

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

Article 111

The present Charter, of which the Chinese, French, Russian, English and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

[*Note:* The foregoing synoptic view of the Charter of the United Nations and the Dumbarton Oaks Proposals is adapted from Appendix A of *Charter of the United Nations—Report to the President on the Results of the San Francisco Conference by the Chairman of the United States Delegation, the Secretary of State.*]

(No Comparable Text)

NOTE

In addition to the question of voting procedure in the Security Council referred to in Chapter VI, several other questions are still under consideration.

WASHINGTON, D.C.
October 7, 1944

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

Article 1

The International Court of Justice established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I—ORGANIZATION OF THE COURT

Article 2

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Article 3

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.

2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

Article 4

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.

2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

Article 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed

under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

Article 6

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

Article 7

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

Article 8

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

Article 9

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

Article 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

Article 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Article 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

Article 13

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.

2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

Article 14

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

Article 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.

2. Any doubt on this point shall be settled by the decision of the Court.

Article 17

1. No member of the Court may act as agent, counsel, or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.

3. Any doubt on this point shall be settled by the decision of the Court.

Article 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

2. Formal notification thereof shall be made to the Secretary-General by the Registrar.

3. This notification makes the place vacant.

Article 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Article 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

Article 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.

2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

Article 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

Article 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

Article 24

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

Article 25

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine judges shall suffice to constitute the Court.

Article 26

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labour cases and cases relating to transit and communications.

2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

Article 27

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

Article 28

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

Article 29

With a view to the speedy despatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

Article 30

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.

2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

Article 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.

2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.

3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.

4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.

6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

Article 32

1. Each member of the Court shall receive an annual salary.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.

7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their travelling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

Article 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

CHAPTER II—COMPETENCE OF THE COURT

Article 34

1. Only states may be parties in cases before the Court.

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

Article 35

1. The Court shall be open to the states parties to the present Statute.

2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

Article 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

a. the interpretation of a treaty;

b. any question of international law;

c. the existence of any fact which, if established, would constitute a breach of an international obligation;

d. the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Article 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

b. international custom, as evidence of a general practice accepted as law;

c. the general principles of law recognized by civilized nations;

d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono,* if the parties agree thereto.

CHAPTER III—PROCEDURE

Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

Article 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

Article 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

Article 42

1. The parties shall be represented by agents.

2. They may have the assistance of counsel or advocates before the Court.

3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

Article 43

1. The procedure shall consist of two parts: written and oral.

2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.

3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.

4. A certified copy of every document produced by one party shall be communicated to the other party.

5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

Article 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.

2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Article 45

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

Article 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

Article 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.

2. These minutes alone shall be authentic.

Article 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

Article 50

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

Article 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

Article 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

Article 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favor of its claim.

2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

Article 54

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.

2. The Court shall withdraw to consider the judgment.

3. The deliberations of the Court shall take place in private and remain secret.

Article 55

1. All questions shall be decided by a majority of the judges present.

2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

Article 56

1. The judgment shall state the reasons on which it is based.

2. It shall contain the names of the judges who have taken part in the decision.

Article 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

Article 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

Article 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Article 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

Article 62

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request.

Article 63

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.

2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Article 64

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV—ADVISORY OPINIONS

Article 65

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

Article 66

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such state entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

Article 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

Article 68

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V—AMENDMENT

Article 69

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

Article 70

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

Appendix C

INTERIM ARRANGEMENTS CONCLUDED BY THE GOVERNMENTS REPRESENTED AT THE UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION

THE GOVERNMENTS represented at the United Nations Conference on International Organization in the city of San Francisco,

Having determined that an international organization to be known as the United Nations shall be established,

Having this day signed the Charter of the United Nations, and

Having decided that, pending the coming into force of the Charter and the establishment of the United Nations as provided in the Charter, a Preparatory Commission of the United Nations should be established for the performance of certain functions and duties,

AGREE as follows:

1. There is hereby established a Preparatory Commission of the United Nations for the purpose of making provisional arrangements for the first sessions of the General Assembly, the Security Council, the Economic and Social Council, and the Trusteeship Council, for the establishment of the Secretariat, and for the convening of the International Court of Justice.

2. The Commission shall consist of one representative from each government signatory to the Charter. The Commission shall establish its own rules of procedure. The functions and powers of the Commission, when the Commission is not in session, shall be exercised by an Executive Committee composed of the representatives of those governments now represented on the Executive Committee of the Conference. The Executive Committee shall appoint such committees as may be necessary to facilitate its work, and shall make use of persons of special knowledge and experience.

3. The Commission shall be assisted by an Executive Secretary, who shall exercise such powers and perform such duties as the Commission may determine, and by such staff as may be required. This staff shall be composed so far as possible of officials appointed for this purpose by the participating governments on the invitation of the Executive Secretary.

4. The Commission shall:

(*a*) convoke the General Assembly in its first session;

(*b*) prepare the provisional agenda for the first sessions of the principal organs of the Organization, and prepare documents and recommendations relating to all matters on these agenda;

(*c*) formulate recommendations concerning the possible transfer of certain functions, activities, and assets of the League of Nations which it may be considered desirable for the new Organization to take over on terms to be arranged;

(*d*) examine the problems involved in the establishment of the relationship between specialized intergovernmental organizations and agencies and the Organization;

(*e*) issue invitations for the nomination of candidates for the International Court of Justice in accordance with the provisions of the Statute of the Court;

(*f*) prepare recommendations concerning arrangements for the Secretariat of the Organization; and

(*g*) make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization.

5. The expenses incurred by the Commission and the expenses incidental to the convening of the first meeting of the General Assembly shall be met by the Government of the United Kingdom of Great Britain and Northern Ireland or, if the Commission so requests, shared by other governments. All such advances from governments shall be deductible from their first contributions to the Organization.

6. The seat of the Commission shall be located in London. The Commission shall hold its first meeting in San Francisco immediately after the conclusion of the United Nations Conference on International Organization. The Executive Committee shall call the Commission into session again as soon as possible after the Charter of the Organization comes into effect and whenever subsequently it considers such a session desirable.

7. The Commission shall cease to exist upon the election of the Secretary-General of the Organization, at which time its property and records shall be transferred to the Organization.

8. The Government of the United States of America shall be the temporary depositary and shall have custody of the original document embodying these interim arrangements in the five languages in which it is signed. Duly certified copies thereof shall be transmitted to the governments of the signatory states. The Government of the United States of America shall transfer the original to the Executive Secretary on his appointment.

9. This document shall be effective as from this date, and shall remain open for signature by the states entitled to be the original Members of the United Nations until the Commission is dissolved in accordance with paragraph 7.

IN FAITH WHEREOF, the undersigned representatives having been duly authorized for that purpose, sign this document in the English, French, Chinese, Russian, and Spanish languages, all texts being of equal authenticity.

DONE at the city of San Francisco, this twenty-sixth day of June, one thousand nine hundred and forty-five.

Appendix D

PRINCIPAL PORTION OF THE JOINT STATEMENT OF THE SPONSORING POWERS ON THE YALTA VOTING FORMULA

The following is the principal portion of the joint statement of the Sponsoring Powers on the Yalta voting formula, with which France associated itself. (The Chapters referred to in the first four quoted paragraphs are those of the Dumbarton Oaks Proposals.)

"1. The Yalta voting formula recognizes that the Security Council, in discharging its responsibilities for the maintenance of international peace and security, will have two broad groups of functions. Under Chapter VIII, the Council will have to make decisions which involve its taking direct measures in connection with settlement of disputes, adjustment of situations likely to lead to disputes, determination of threats to the peace, removal of threats to the peace, and suppression of breaches of the peace. It will also have to make decisions which do not involve the taking of such measures. The Yalta formula provides that the second of these two groups of decisions will be governed by a procedural vote—that is, the vote of any seven members. The first group of decisions will be governed by a qualified vote—that is, the vote of seven members, including the concurring votes of the five permanent members, subject to the proviso that in decisions under Section A and a part of Section C of Chapter VIII parties to a dispute shall abstain from voting.

"2. For example, under the Yalta formula a procedural vote will govern the decisions made under the entire Section D of Chapter VI. This means that the Council will, by a vote of any seven of its members, adopt or alter its rules of procedure; determine the method of selecting its President; organize itself in such a way as to be able to function continuously; select the times and places of its regular and special meetings; establish such bodies or agencies as it may deem necessary for the performance of its functions; invite a member of the Organization not represented on the Council to participate in its discussions when that Member's interests are specially affected; and invite any state when it is a party to a dispute being considered by the Council to participate in the discussion relating to that dispute.

"3. Further, no individual member of the Council can alone prevent consideration and discussion by the Council of a dispute or situation brought to its attention under paragraph 2, Section A, Chapter VIII. Nor can parties to such dispute be prevented by these means from being heard by the Council. Likewise, the requirement for unanimity of the permanent members cannot prevent any member of the Council from reminding the members of the Organization of their general obligations assumed under the Charter as regards peaceful settlement of international disputes.

"4. Beyond this point, decisions and actions by the Security Council may well have major political consequences and may even intitiate a chain of events which might, in the end, require the Council under its responsibilities to invoke measures of enforcement under Section B, Chapter VIII. This chain of events begins when the Council decides to make an investigation, or determines that the time has come to call upon states to settle their differences, or makes recommendations to the parties. It is to such decisions and actions that unanimity of the permanent members applies, with the important proviso, referred to above, for abstention from voting by parties to a dispute.

"5. To illustrate: in ordering an investigation, the Council has to consider whether the investigation—which may involve calling for reports, hearing witnesses, dispatching a commission of inquiry, or other means—might not further aggravate the situation. After investigation, the Council must determine whether the continuance of the situation or dispute would be likely to endanger international peace and security. If it so determines, the Council would be under obligation to take further steps. Similarly, the decision to make recommendations, even when all parties request it to do so, or to call upon parties to a dispute to fulfil their obligations under the Charter, might be the first step on a course of action from which the Security Council could withdraw only at the risk of failing to discharge its responsibilities.

"6. In appraising the significance of the vote required to take such decisions or actions, it is useful to make comparison with the requirements of the League Covenant with reference to decisions of the League Council. Substantive decisions of the League of Nations Council could be taken only by the unanimous vote of all its members, whether permanent or not, with the exception of parties to a dispute under Article XV of the League Covenant. Under Article XI, under which most of the disputes brought before the League were dealt with and decisions to make investigations taken, the unanimity rule was invariably interpreted to include even the votes of the parties to a dispute.

"7. The Yalta voting formula substitutes for the rule of complete unanimity of the League Council a system of qualified majority voting in the Security Council. Under this system non-permanent members of the Security Council individually would have no 'veto'. As regards the permanent members, there is no question under the Yalta formula of investing them with a new right, namely, the right to veto, a right which the permanent members of the League Council always had. The formula proposed for the taking of action in the Security Council by a majority of seven would make the operation of the Council less subject to obstruction than was the case under the League of Nations rule of complete unanimity.

"8. It should also be remembered that under the Yalta formula the five major powers could not act by themselves, since even under the unanimity requirement any decisions of the Council would have to include the concurring votes of at least two of the non-permanent members. In other words, it would be possible for five non-permanent members as a group to exercise a 'veto'. It is not to be assumed, however, that the permanent members, any more than the non-permanent members, would use their 'veto' power wilfully to obstruct the operation of the Council.

"9. In view of the primary responsibilities of the permanent members, they could not be expected, in the present condition of the world, to assume the obligation to act in so serious a matter as the maintenance of international peace and security in consequence of a decision in which they had not concurred. Therefore, if a majority voting in the Security Council is to be made possible, the only practicable method is to provide, in respect of non-procedural decisions, for unanimity of the permanent members plus the concurring votes of at least two of the non-permanent members.

"10. For all these reasons, the four sponsoring Governments agreed on the Yalta formula and have presented it to this Conference as essential if an international organization is to be created through which all peace-loving nations can effectively discharge their common responsibilities for the maintenance of international peace and security."